

15.09.2025
SL No.09
Court No.16
(gc)

SAT 91 of 2024
CAN 1 of 2024

Ms. Kishori Rani Paul & Anr.
Vs.
Sri Mahitosh Paul & Ors.

Mr. Susenjit Banik,
Mr. Sukdeb Sarkar

...for the Appellant.

1. The decree of affirmation by the First Appellate Court is the subject of this Second appeal. The second appeal can be admitted provided there is a substantial question of law. The plaintiff has filed a suit for eviction. It is clear from the evidence more particularly the exhibit-9 series that the defendant nos.2 and 3 expressed their helplessness and financial hardship due to the neglect of the defendant no.1, their father and has prayed for accommodation in the property which originally belonged to the plaintiff. It is true that the plaintiff has claimed declaration that patta deed granted in favour of the defendant no.2 should be declared null and void as the defendants wanted to establish their right in respect of the suit property on basis of the patta deed, but no such patta deed or its certified copy has been produced before the Trial

Court. In that background, the learned Trial Judge in deciding the issue no.5 observed that the Collector would be the authority to finally decide whether a land has vested in an occupier or not. Once the plaintiff has established his title over the property in question and the onus shifts upon the defendant that he is the owner of the property by reason of patta and the defendant having failed to discharge the onus, the judgment of the Trial Court as well as the First Appellate Court cannot be disturbed. There is a clear finding both on fact on the basis of the additional evidence.

2. In view thereof, we do not find any reason to admit the second appeal.
3. Accordingly, the second appeal and the application are dismissed.
4. However, there shall be no order as to costs.
5. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)