

22.09.2025
SL No.20
Court No.1
(gc)

SAT 138 of 2025
CAN 1 of 2025

Surendar Sah @ Surendra Shah
Vs.
Yogendra Sah @ Yogendra Shah & Anr.

Mr. Birendra Kumar Jha,
Mr. Manish Patra
...for the Appellant.
Mr. Sambhunath De,
... for the Respondents.

1. The decree of affirmation passed by the learned Additional District Judge, 1st Court, Barrackpore is the subject matter of challenge in this second appeal. This matter has come up for admission.
2. Indisputably, the plaintiff, Yogendra Sha was able to establish his title to the property by virtue of Exhibit-1 which is a deed of conveyance being No.1061 of 1995 dated 20.02.1995 followed by Exhibit Nos.2, 3 and 5 wherefrom it appears that the plaintiff paid the municipal tax before the authority and a trade licence was issued by the department concerned for running a business in the suit property. The burden of proof under Section 101 of the Indian Evidence Act, 1872 corresponds to Section 104 of the Bharatiya Sakshya Adhiniyam, 2023 has been duly discharged by the plaintiff. It appears from the record that before the Trial Court after some time the defendant/appellant did not participate

and conclude his argument. The defendant in order to deny the right of the plaintiff has relied upon Exhibit-A, A/1 and A/2. These documents are merely a proof of permission to run a business by the competent authority and do not decide the question of ownership in respect of the property in question. The said documents cannot dislodge the evidentiary value of the deed of conveyance dated 20.02.1995 being the source of title for the plaintiff.

3. The concurrent findings of facts based on Exhibit-1 and other related documents establishing title to the plaintiff by both the Courts does not call for interference.
4. Accordingly, we are not inclined to admit the second appeal at this stage.
5. The second appeal and the application are dismissed.
6. However, there shall be no order as to costs.
7. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[Soumen Sen, C.J. (Acting)]

(Apurba Sinha Ray, J.)