AD-18
Ct No.16
06.02.2025
TN

SAT 96 of 2024
IA No: CAN 1 of 2024

Sri Apurba Kumar Jana and others
Vs.
Ismail Sk. and others

Mr. Sk. Moinuddin
....for the appellants

1. The present second appeal has been preferred by the plaintiff in a suit for eviction under the Transfer of Property Act, 1882.
2. Learned counsel for the appellants argues that in the absence of any evidence to indicate that the lease was granted for a manufacturing purpose, both the courts below erred in law in holding that the notice under Section 106 of the Transfer of Property Act, issued for 15 days, was invalid, since a six months' notice was necessitated under the said Section for a manufacturing lease.
3. It is further argued that at the point time when the notice was issued, the wife of the original lessee, who was in occupation of the property, was not running any manufacturing business and, as such, the very premise of the impugned judgments is erroneous.
4. However, we find from the language of Section 106 of the Transfer of Property Act, 1882 that the relevant point for ascertaining whether a lease is for manufacturing purpose is not the time of issuance of

the notice under Section 106 but the juncture when the lease itself was granted.

5. Section 106(1) carries the expression "*a lease* of immovable property *for* agricultural or *manufacturing purposes* shall be deemed to be a lease from year to year", supports the above interpretation.
6. Thus, the second argument of the appellants cannot be accepted.
7. Insofar as whether the lease was granted for manufacturing purpose, it is admitted in the plaint that the lease was given to run a shop room. The learned Trial Judge considered Exhibit-E, a food licence in respect of the shop room issued in the name of the original defendant by the Government of West Bengal. Besides, it was recorded by the learned Trial Judge that in his cross-examination dated December 07, 2016, the plaintiff/appellant no.1, as PW.1, admitted that the original lessee, that is, the husband of the present lessee, was inducted in respect of the shop room for bakery business.
8. Both the courts below dealt with the issue as to whether a bakery business can come within the purview of "manufacturing" within the contemplation of Section 106 of the Transfer of Property Act and decided the issue in the positive.
9. Although it may be arguable as to whether a bakery is a manufacturing business, the view taken by both the

courts below that it is so, is undoubtedly one of the plausible views on the materials on record, since even in a bakery business, raw materials are converted into finished products which are then sold, which may come within the broad purview of 'manufacturing'.

10. It is also well-settled that the appellate court, particularly the second appellate court, shall not substitute its own views for that of the courts below merely because another view is possible on the same set of facts, particularly in the teeth of concurrent findings of both the courts below that the lease was granted for manufacturing purpose and, as such, the notice of 15 days under Section 106 of the Transfer of Property Act was invalid.

11. Hence, we do not find any substantial question of law involved in the appeal.

12. Accordingly, SAT 96 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 1 of 2024 also stands dismissed without, however, any order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)