

6th February,
2025
(AK)
19

S.A.T 160 of 2024
IA No: CAN 1 of 2024
CAN 2 of 2024

Kishan Lal Jaiswal and another
Vs.
Ujjwal Kumar Chatterjee and another

Mr. Dhiraj Trivedi
Mr. Bikash Kumar Singh
Ms. Swapna Jha

...for the appellants.

Mr. Tanmoy Mukherjee
Mr. Anirban Saha Roy
Mr. Souvik Das
Mr. Rudranil Das

...for the respondents.

In Re: CAN 2 of 2024

1. Heard learned counsel for the parties.
2. We find that sufficient cause for the delay of fourteen days in preferring the appeal has been made out in the application.
3. Accordingly, CAN 2 of 2024 is allowed, thereby condoning the delay in preferring SAT 160 of 2024.

In Re: S.A.T 160 of 2024

4. The appeal is now taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.
5. The defendants/appellants in a suit for eviction under the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as “the 1997 Act”) have

preferred the present second appeal against a judgment of affirmance whereby both the courts below granted eviction on the ground of reasonable requirement of the plaintiffs/respondents.

6. Learned senior counsel appearing for the appellants argues that the appellants had applied for a local inspection of the two houses owned purportedly by the married daughter of the plaintiffs, which was refused.
7. It is submitted that since the requirement projected by the plaintiffs is also for the said daughter, her husband and son, the alternative accommodation of the daughter also ought to have been inspected.
8. Secondly, it is contended that the appellants furnished evidence during pendency of the suit regarding the alternative accommodation of the daughter which was suppressed by the plaintiffs and, as such, the plaintiffs are not entitled to any relief in law or equity.
9. Thirdly, it is argued that the plaintiffs have admittedly sold a Burdwan property of theirs, which gives rise to the presumption that the properties of the daughter were purchased in the benami of the daughter by the plaintiffs with the consideration of such sale.
10. However, we find from the records that both the courts below have concurrently found that there

was sufficient requirement of the plaintiffs for the suit premises.

11. The suit property is comprised of about four rooms, which would, in any event, be required by the plaintiffs themselves, even without the daughter and her family coming to stay with the plaintiffs.
12. That apart, the plaintiffs are at present residing with their daughter at her house despite owning the suit property, which itself is sufficient ground for eviction within the contemplation of reasonable requirement under the 1997 Act.
13. As to the question of benami, the sale of the Burdwan property of the plaintiffs is too remote an event to automatically give rise to the presumption that the daughter's properties were purchased by the plaintiffs in the benami of the daughter.
14. Also, we do not find any relevance of inspection to show the accommodation in the premises owned by the daughter in her name, since the same cannot come within the ambit of "alternative accommodation" of the plaintiffs/respondents themselves.
15. Hence, we do not find any substantial question of law involved in the appeal sufficient to entertain the second appeal in the teeth of the concurrent findings of fact of the courts below.

16. Accordingly, SAT 160 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. CAN 1 of 2024 stands dismissed as well accordingly.
17. There will be no order as to costs.
18. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)