

AD- 15
Ct No.16
26.02.2025
(SSS)

SAT 173 of 2024
With
CAN 2 of 2024

Sri Namo Narayan Singh
Vs.
Smt. Usha Rani Paul

Mr. Ajay Debnath,
Ms. Pranesha Naskar,

...For the Appellant.

Mr. Sudhir Kr. Sadhukhan,
Ms. Moumita Basak

...For the Respondent.

1. The present second appeal has been preferred against a judgment of reversal arising out of an eviction suit filed by the plaintiff/respondent on the ground of reasonable requirement.
2. The learned Trial Judge dismissed the suit for eviction by holding that the plaintiff/respondent has failed to disclose her present accommodation in the suit building, although it has been established by a purchase deed that the plaintiff is the owner of the entire suit building.
3. The appellate court reversed the findings by taking note of the evidence of PW1, the son of the

plaintiff/respondent, that the other rooms in the suit building have also been let out to other tenants.

4. Learned Counsel for the appellant argues that such finding of the appellate court is contrary to the observation of the learned Trial Judge, who specifically narrated the relevant portion of the evidence of PW1, the son of the plaintiff, who had admitted that apart from the defendant, there is no other tenant on the third floor of the suit building. Thus, it is submitted by the appellant that in view of such admission, the trial court was justified in refusing to grant eviction on the ground of reasonable requirement on the failure of the plaintiff to show the extent and mode of user of the other rooms at the suit building, situated at 12B, Jadu Pandit Road, Kolkata – 700 006.

5. However, on a careful perusal of the judgments of both the courts below, we find that there is no contradiction in the findings of the trial court and the first appellate court insofar as the evidence of PW1 is concerned. Whereas the learned Trial Judge observed that PW1 had admitted in his cross-examination that there is no other tenant on the third floor of the suit building apart from the defendant, by such very statement, it is evident that the admission of there being no other tenant was restricted to the third floor, and the third floor alone, of the suit building.

On the other hand, the first appellate court also considered the evidence of PW1 and recorded that the said witness had stated that the other rooms in the suit building has been let out to other tenants.

6. That apart, the first appellate court took into consideration the fact that at present the plaintiff, along with her family, are residing at a rented accommodation, which itself is a sufficient ground for the plaintiff to seek to be accommodated in her own house at the suit building.

7. That apart, the appellate court specifically enumerated the number of family members of the plaintiff and their particulars and also came to a specific finding as to the exact requirement of the plaintiff/respondent.

8. Thus, since the plaintiff and her family are at present residing in a rented accommodation, accommodation in her own house at the suit building always has an edge over such rented accommodation. Thus, such requirement is definitely bona fide and reasonable.

9. That apart, a finding of fact has been arrived at by the learned Trial Judge on the basis of evidence regarding the number of family members of the plaintiff and their specific requirements.

10. The matter then boils down to the finding of the first appellate court to the effect that PW1 had stated

that the other rooms of the suit building had been let out to other tenants. However, this court, sitting in second appeal, is not in a position to re-appreciate such evidence. Since the learned first appellate Judge has chosen to believe and proceed on the basis of such oral evidence of PW1 to the extent that the other rooms of the suit building are tenanted, no substantial question of law arises as to re-appreciation of the same for the second appeal to be entertained.

11. Thus, we do not find that any substantial question of law is involved in the second appeal.

12. Accordingly, SAT 173 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 2 of 2024 also stands dismissed.

13. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)