

02.09.2025
SL No.4
Court No.16
(gc)

**SA 84 of 2025
CAN 1 of 2025**

**Pradip Kumar Addhay
Vs.
Sri Ranjit Das & Anr.**

Mr. Tapan Coomaar Dey,
Ms. Shreya Chatterjee
...for the Appellant.
Mr. Basab Shaw,
Mr. Avishek Das
... for the Respondents.

1. The judgment of affirmation in a suit for eviction and recovery of khas possession filed by the respondents is the subject matter of challenge in this second appeal.
2. The learned Counsel appearing on behalf of the appellant has submitted that the suit itself was not maintainable as it was filed within a period of one year after the present plaintiffs/landlord acquired interest in the premises by way of transfer. However, this point was not raised either in the written statement or during trial. Moreover, it appears that the ground for reasonable requirement for own occupation of the plaintiffs was incorporated by way of an amendment after four years from the date of filing of the suit. The ground for reasonable requirement was the ground taken later and admittedly after one year. The Trial Court as well

as the First Appellate Court has meticulously analyzed the pleadings as well as the oral and documentary evidence adduced by the parties. In deciding whether the plaintiffs would be required to establish reasonable requirement, the learned Trial Court as well as the First Appellate Court has taken into consideration that the requirement of the plaintiffs would be of 8 rooms as established from the documentary evidence as well as the oral evidence of the P.W.-1. The reasonableness and the suitability need to be adjudicated taking into consideration the convenience of the landlord and his family members, the profession, vocation, lifestyle, habits, background of the case and on the basis of the totality of the circumstances. The suitability of the landlord should be left to the discretion of the landlord unless it appears to be fanciful. The plaintiff was living with the family in rental premises which cannot be taken as suitable alternative accommodation of him. Insofar as the addition and alteration are concerned, the Commissioner's final report being Exhibit-14 was taken into consideration by both the Courts. The impartiality and/or competence of the learned Commissioner as well as the correctness of the learned Commissioner were not under challenge in the said proceedings. The

report being Exhibit-14 would show that the defendant did not agree to identify his accommodation in the suit building. On plaintiff's identification, the learned Commissioner could ascertain that the defendant occupied one room and one kitchen on the ground floor of the said building. The learned Commissioner found that the roof of the kitchen has been parted with wooden pulla and iron beams making a mezzanine floor, measuring about 6ft. and 6ft. There were two computers, two computer printers, two revolving chairs and papers, book and other articles. It was electrically fitted. Before the Commissioner, the plaintiffs had submitted and it is recorded in the report as well as in the field notes that the mezzanine room made by the defendant above the kitchen was without permission from the plaintiffs and the same is used for commercial purpose by the defendant. The said statements are not being denied. The making of construction without the required permission of the landlords was held to be a material alteration.

3. The findings of both the Courts on the issues which have been dealt with elaborately and supported by oral and documentary evidence do not call for any interference at this stage. There is no perversity in the order passed by both the

Courts. The findings of facts based on cogent evidence do not call for any interference in the second appeal. The second appeal can be admitted provided there is any substantial question of law. The findings of both the Courts are based on facts and evidence which lead to certain legal inferences in favour of the plaintiffs. Once the facts are established, the legal inferences has to follow and based on the materials and evidence, the learned Trial Court has decreed the suit and the First Appellate Court has affirmed the decree.

4. In view thereof, we do not find any reason to admit the second appeal.
5. Accordingly 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, J.)

(Apurba Sinha Ray, J.)