

AD- 35
Ct No.16
22.04.2025
(SSS)

SAT 264 of 2024
With
CAN 1 of 2025

Alok Saha
Vs.
Tarasankar Karmakar

Mr. Sounak Bhattacharya,
Mr. Sounak Mondal,
Mr. Anirban Saha Roy
.....For the Appellant.

Mr. Partha Pratim Roy,
Ms. Poulami Chakraborty
...For the Respondent.

1. The present second appeal has been preferred by the defendant/appellant against a judgment of reversal. The eviction suit was filed by the plaintiff/respondent on the grounds of both default in payment of rent and reasonable requirement. However, the ground of default did not materialize, being not pressed ultimately.

2. The learned Trial Judge refused to grant eviction decree on the ground of reasonable requirement on the premise that the plaintiff/respondent was of about 70 years of age at that juncture and it would not be possible for him to start a new hardware business, which was the basis of the landlord's pleaded requirement.

3. It is to be noted here that the plaintiff had claimed requirement of the suit premises on the ground that although he used to run a hardware business from the premises thirteen years back, since his wife had been earning sufficiently from her service in the interregnum, he had stopped the business, being not in requirement of additional money. However, upon the wife of the plaintiff having retired subsequently, and her pensionary benefits being insufficient to make both ends meet, the plaintiff requires the suit premises for re-commencing his hardware business, in respect of which he had previous experience.

4. The learned Trial Judge also recorded, apart from the advanced age of the plaintiff, that since he had abandoned the said hardware business previously and had inducted the present appellant as a tenant, the suit could not be decreed on the ground of reasonable requirement.

5. The learned First Appellate Judge reversed such finding and proceeded on the premise that in view of the retirement of the wife of the plaintiff and since according to the plaint case, the earning from her pension was meagre, the plaintiff sufficiently required the suit premises within the contemplation of Section 6(1)(d) of the West Bengal Premises Tenancy Act, 1997 to start his hardware business afresh.

6. Learned Counsel appearing for the appellant argues that in the absence of any specific averment in the plaint as to the plaintiff not having any suitable alternative accommodation than the suit premises and his present accommodation, the first Appellate Judge erred in law in granting a decree of eviction, since such ingredient is a *sine qua non* for grant of eviction on the ground of reasonable requirement under the said provision.

7. However, we do not find any merit in such argument, since Section 6(1)(d) merely provides one of the grounds for eviction under the 1997 Act and also stipulates that in the event the landlord has an equally suitable alternative accommodation, no decree for eviction on the ground of reasonable requirement can be passed. However, neither in the said provision nor anywhere else within the four corners of the 1997 Act is there any mandate cast upon the plaintiff/landlord to incorporate a specific pleading in his plaint to the effect that the plaintiff does not have any suitable alternative accommodation.

8. In such view of the matter, and since the question of alternative accommodation was raised and decided in the appeal by holding that the defendant/appellant has failed to prove any alternative accommodation of the plaintiff, we do not

find that any question of law, let alone any substantial question of law, having been made out in the present case.

9. In such view of the matter, SAT 264 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. Consequentially, CAN 1 of 2025 is also dismissed.

11. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)