

AD -2
Ct No.16
26.11.2025
(SSS)

SAT 267 of 2024
With
CAN 1 of 2024

Sri Gouri Sankar Das and Ors.
Vs.
Smt. Sipra Das and Anr.

Mr. Chittapriya Ghosh,
Ms. Priyanka Saha
.....For the appellants.

1. Leave is granted to the learned advocate-on-record for the appellants to carry out the necessary rectification in the name of the appellant no. 3 as well as incorporating the name of the defendant no. 5 in the trial court as proforma respondent in the cause title of the memorandum of appeal during the course of the day.

2. The decree of the first appellate court be sent down for the purpose of necessary corrections in the appellate court's decree in terms of the report of the Additional Stamp Reporter.

3. The present second appeal has been preferred by the defendant in a suit for eviction of trespasser, against a judgment of affirmance. Both the courts below have concurrently found that the defendant is a trespasser. A purported

declaration was furnished by the appellants in evidence in the courts below, which was marked as Exhibit 'A', which indicated that the predecessor-in-interest of the plaintiffs/respondents granted permissive possession to the appellants.

4. Both the courts below have proceeded correctly on the premise that such declaration, being unstamped and unregistered, did not confer any title on the appellants.

5. Moreover, we are of the opinion that even if such permissive possession was given, the filing of the suit itself is sufficient to get an eviction decree against a licensee/permissive occupier.

6. The defendants also ran a case of adverse possession after the demise of the predecessor-in-interest of the plaintiffs, who allegedly granted license in favour of the appellants. However, since the appellants claim permissive possession at their entry point to the suit premises, such possession could not have been pleaded to have been converted automatically to adverse possession, particularly in the absence of specific pleadings and proof in that regard.

7. That apart, we find that the defences of adverse possession and permissive occupation are mutually destructive of each other and as such, the defendants/appellants failed to establish their

title to the property and/or legal right to occupy the same. Accordingly, we do not find any justification to interfere with the concurrent findings of both the courts below.

8. In view of the above, no substantial question of law is involved. Accordingly, SAT 267 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

9. CAN 1 of 2024 is also dismissed consequentially.

10. There will be no order as to costs.

11. At this juncture, learned counsel for the appellants seeks some time for the appellants to vacate the suit premises. Leave is given to the appellants to make such prayer before the executing court as and when execution is levied by the plaintiffs/respondents.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)