

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**APOT/281/2025
IA No.GA/1/2025, GA/2/2025**

**NEELESH CHANDRA AGARWAL
-VS-
ASHA BANSAL AND ORS**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant : Mr. Sunil Kumar Singhania, Adv.
Ms. Kalpana Singhania, Adv.

For the Respondent : Mr. Meghnad Dutta, Adv.
Mr. Rajesh Upadhyay, Adv.

HEARD ON : 19.12.2025

DELIVERED ON : 19.12.2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the defendant in a suit for eviction. Appeal is directed against an order dated September 2, 2025, as corrected on September 8, 2025. By the impugned order, learned Single Judge refused to review its order dated July 22, 2025.
2. Appellant contends that, the suit for eviction was filed against the appellant, when, the recorded tenant was alive. According to the appellant, the recorded tenant expired on May 30, 2024. The

learned Single Judge did not take into account such fact and refused to review the earlier order dated July 22, 2025.

3. According to appellant, the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 filed by the appellant and dismissed on July 22, 2025, was required to be allowed on review. Learned Single Judge erred in not doing so.
4. Learned Advocate appearing for the plaintiff/respondent submits that recorded tenant expired in 2016. He submits that, the appeal is not maintainable as no appeal from such order is provided under Order XLIII of the Code of Civil Procedure, 1908.
5. The suit is a non-commercial suit. Appeal against the order passed by the interlocutory Court in non-commercial suit is governed by Clause 15 of the Letters Patent, 1865.
6. Impugned order affects the rights of the appellant in respect of the suit property. According to appellant, he was wrongly dragged into the suit, since, on the date of filing of the suit, recorded tenant was alive.
7. Decision in the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 affects such right of the appellant. Refusal to review the order of dismissal dated July 22, 2025, consequently affects the appellant.
8. Therefore, we find that the appeal at the behest of the appellant directed against the impugned order is maintainable under Clause 15 of the Letters Patent, 1865.

9. So far as the merits in the appeal is concerned, we find from the records that learned Single Judge refused to review its earlier order dated July 22, 2025 dismissing the application under Order VII Rule 11 of the Code of Civil Procedure, 1908.
10. We find that, no new material or fact was placed before the learned Single Judge to exercise the jurisdiction of review, directed against the earlier order dated July 22, 2025.
11. Learned Single Judge, by impugned order kept the contention of the appellant open for the purpose of adjudication at the trial.
12. In such circumstances, we find no merit to interfere with the impugned order.
13. APOT/281/2025 along with all connected applications are disposed of.
14. There will be no order as to costs.

(DEBANGSU BASAK, J.)

15. I agree.

(MD. SHABBAR RASHIDI, J.)