

D/L.6.
May 11, 2026.
MNS.

SAT No. 14 of 2026

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CAN 1 of 2026

Smt. Usha Debi Shaw and another
Vs.
Sri Subhas Sinha

Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharya,
Ms. Priyanka Jana,
Ms. Shruti Agarwal, Advs.

... for the respondent.

1. Learned counsel for the respondent submits that at least on two previous occasions, last chances were given to the appellants to argue the appeal under Order XLI Rule 11 of the Code of Civil Procedure.
2. The backdrop of the case is that a suit was filed for eviction of the appellants by the respondent, which was decreed by both the courts below; whereas the counter claim of the appellants for declaration of their purported tenancy right has been turned down, also by both the courts below, which has the effect of a separate decree. However, a single appeal has been preferred by the appellants.
3. Upon the query of court, learned counsel for the respondent had clarified on an earlier occasion that the present appeal has been preferred against the decree of eviction. As such, as of today, there is no appeal on board insofar as the dismissal of the counter claim is concerned.

4. Thus, if the counter claim dismissal attains finality, the claim of tenancy of the appellants can no longer stand and the eviction decree would follow almost as a matter of course, rendering the present appeal against such decree still-born.

5. Learned counsel for the respondent further submits that the respondent, in execution of the eviction decree, has already taken possession of the suit property and as such, the appellants may not have any further interest in pursuing the appeal.

6. Be that as it may, since several chances have been given to the appellants to argue the matter, but the appellants choose to remain absent even today at the time of call, SAT No. 14 of 2026 is dismissed for default.

7. CAN 1 of 2026 is accordingly dismissed for default as well.

8. There will be no order as to costs.

(Biswaroop Chowdhury, J.) (Sabyasachi Bhattacharyya, J.)