

AD – 17
Ct No.16
22.06.2026
(SSS)

SAT 19 of 2026

Bikash Kumar Shaw
Vs.
Sima Chakraborty

Mr. Dilip Kumar Das,
Mr. Debasis Sur,
Mr. Kaushal Kumar,
Mr. Mrinmoy Chatterjee
.....For the appellant.

1. The present second appeal has been preferred against a judgment of affirmance, whereby both the Courts below decreed the suit for declaration of tile and recovery of khas possession filed by the plaintiffs/respondent against the defendants/appellant.

2. Learned counsel for the appellant submits that initially a suit was filed for declaration of tenancy rights of the appellant, which was dismissed. A counter claim seeking self-same relief was also dismissed by the Trial Court. No appeal has been preferred against either.

3. Learned advocate appearing for the appellant seeks to canvass primarily two grounds for admission of the appeal. First, it is contended that

the vendor of the plaintiffs/respondent entered into a written agreement for sale of the suit property in favour of the defendant/appellant. The said document was sought to be brought on record by way of additional evidence under Order XLI Rule 27 of the Code of Civil Procedure before the First Appellate Court but such application was turned down by the First Appellate Court erroneously. It is argued that such document, coupled with the fact that possession was handed over in pursuance thereof, affords an indefeasible right in favour of the defendant/appellant insofar as possession is concerned.

4. It is next argued that the suit was undervalued, since the valuation of the property regarding which recovery of possession was sought is much higher than the basis on which the plaint was valued. The said aspect was erroneously decided by the learned First Appellate Court.

5. Insofar as the first ground urged before us is concerned, the same is not tenable in the eye of law. In the absence of any suit for specific performance of the agreement, the mere possession in respect of the property, even if in pursuance of such agreement for sale, cannot confer an indefeasible and everlasting right of

possession in favour of the defendant/agreement-holder.

6. Such agreement, at best, furnished an actionable claim in favour of the defendant/appellant to obtain a specific performance of the same. However, the limitation period for seeking such relief having expired long back, such relief could not even be claimed by the defendant/appellant now, since no suit has actually been filed in that regard. Thus, the agreement simpliciter does not confer any right/title *in praesenti* in favour of the defendant/appellant to defeat the right of the plaintiff (true owner). Hence, the agreement in question, even if the veracity of the same is established, would not be at all be relevant in adjudicating the present suit in its present form.

7. Secondly, the issue of undervaluation was dealt with categorically by the learned Trial Court itself, which was affirmed by the First Appellate Court. The learned Trial Judge clearly observed that in view of a cloud having been cast on the title of the plaintiff as claimed by both the parties, the relief of declaration of title was the principal relief and the suit was correctly valued on the basis of the self-assessment of such valuation by the plaintiff, as disclosed in the plaint. Thus, the

learned Trial Court, as affirmed by the First Appellate Court, correctly applied the principle embodied in Section 7(iv)(b) of the West Bengal Court Fees Act, 1970. We also do not find any illegality in such aspect of the matter.

8. Thus, no substantial question of law for admission of the appeal has been made out.

9. Accordingly, SAT 19 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. No order as to costs.

11. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)