AD – 26
Ct No.16
08.10.2026
(SSS)

SAT 200 of 2026

Omir Kumar Das @ Amir Kumar Das
Vs.
Manju Das and Ors.

Mr. Tapas Bhattacharyya,
Mr. Sukumar Ghosh,
Ms. Moumita Ghosh, Advs.
....for the appellant.

1. The present appeal arises out of a judgment of affirmance, whereby both the courts below granted a decree of eviction against the appellant pursuant to a notice being issued by the plaintiffs/respondents under Section 106 of the Transfer of Property Act, 1882.

2. Learned counsel appearing for the appellant argues that whereas the tenancy was according to Bengali calendar months, the notice was issued on the premise that the tenancy was as per the English calendar.

3. Thus, there was a discrepancy in the notice itself, vitiating the cause of action of the suit. for which the suit ought to have been dismissed.

4. It is further argued that simultaneously with the suit, the appellant had taken out a counter-

claim seeking restoration of possession on the allegation that during pendency of the suit, the appellant was illegally evicted from the suit property without following due course of law. It is argued that the counter-claim ought to have been allowed on its own merits.

5. However, we find that the learned courts below duly took into consideration the above aspects of the matter. The courts considered the fact that although the notice might have been issued as per the English calendar, fact remains that the suit was filed after the notice period of fifteen days, as contemplated in Section 106 of the Transfer of Property Act, thus complying with the said provision in substance. The courts also considered that a notice, it is well settled, is not to be read as a statute but it is to be considered whether the purpose of the notice, of intimating the person to whom the notice was issued about the rudimentary relevant facts, is served.

6. Upon a perusal of the judgments of both the courts below, we do not find any error of law in either of the said judgments, since the notice, issued under whichever presumption, whether according to the Bengali or the English calendar, satisfied the parameter of affording the statutory period of fifteen days as contemplated under

Section 106 of the Transfer of Property Act. The suit was instituted only after such period expired.

7. In view of the eviction suit itself having been decreed, there was no question of allowing the counter-claim which, in any event, was rendered redundant.

8. Thus, no substantial question of law is involved in the appeal.

9. Accordingly, SAT 200 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)

(Sandip Kumar De, J.)