

19th May,
2026
(AK)
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SAT 283 of 2025
IA No: CAN 1 of 2026

Smt. Archana Maity
Vs.
Sri Debi Prasad Das

Mr. Dyutiman Banerjee
Mr. Salil Kumar Maiti
Mr. Dolan Samanta

....For the appellant.

1. The present second appeal has been preferred against a judgment of affirmance, whereby both the courts below have granted a decree of eviction against the defendant/appellant on the ground of subletting under Section 6(a) of the West Bengal Premises Tenancy Act, 1997.
2. Learned counsel for the appellant submits that in order to establish subletting, it is essential to proof parting with exclusive possession and control as well as passage of consideration.
3. In the instant case, the courts below proceeded only on the premise of two electoral rolls, respectively of the appellant and the alleged sub-tenant, to come to a finding that exclusive possession has been parted with.
4. However, no proof of passage of consideration came on record.

5. Learned counsel cites *Dipak Banerjee vs. Lilabati Chakraborty*, reported at (1987) 4 SCC 161, in support of the proposition that in a case of subletting, the passage of consideration is necessarily to be proved.
6. On a perusal of the judgments of both the courts below, we find that the defendant/appellant did not adduce any independent evidence, oral or documentary.
7. Both the trial court and the first appellate court relied on the oral evidence of the plaintiff's witness as well as Exhibit-5, which is an electoral roll of the Jorasanko Assembly Constituency, within which the suit property is situated, depicting the name of the sub-tenant therein.
8. Also, Exhibit-6 was produced by the plaintiff/respondent, which is an electoral roll of the Haldia Assembly Constituency, in support of the plaintiff's case that the defendant/appellant has permanently shifted to another place outside the city of Kolkata at "Upasana", near Mini Market, Post Office - Haldia Township, District - Purba Medinipur, Pin Code-721607.
9. Thus, the courts, proceeding on the oral evidence and the said two documents, came to a conclusion that the defendant/appellant has shifted from the

suit property and has parted with possession of the same by way of subletting in favour of a third party.

10. The learned first appellate court also placed reliance on a judgment of the Hon'ble Supreme Court in the matter of *Joginder Singh Sodhi vs. Amar Kaur*, reported at (2005) 1 SCC 31, where it was observed by the Hon'ble Supreme Court that once a landlord establishes parting with possession by the tenant to a third party, the onus would shift on the tenant to explain his possession.
11. It was further held that the proof of payment of monetary consideration by the sub-tenant to the tenant is not a *sine qua non* to establish subletting.
12. If the propositions laid down in *Joginder Singh Sodhi (supra)* and *Dipak Banerjee (supra)* are taken into consideration, it will be evident that if the landlord establishes parting with possession by the tenant to a third party, the onus shifts on the tenant to explain his possession.
13. In the present case, in the absence of any independent evidence being led by the defendant/appellant/tenant, the principle laid down in *Joginder Singh Sodhi (supra)* squarely applies and the proof of monetary consideration becomes rather redundant.

14. That apart, since the defendant/appellant did not establish his independent case of the alleged sub-tenant being his cousin, whereas the plaintiff proved his case by oral and documentary evidence, which was accepted by both the trial court and the first appellate court, there is no scope of disturbing such concurrent findings of fact in a second appeal.
15. Even otherwise, Section 6 (a) of the 1997 Act is not confined to subletting but also includes assignment and parting with possession as grounds of eviction, further justifying the eviction decree granted under the said provision.
16. Thus, in any event, no question of law has also been raised as such.
17. Accordingly, SAT 283 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
18. Consequentially, CAN 1 of 2026 is also dismissed.
19. There will be no order as to costs.
20. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)