

**SAT 06 of 2023
With
CAN 2 of 2023**

**Sova Ghosh
Vs
Tripti Roy & Ors.**

Mr. Souradipta Banerjee
Mrs. Fatima Hassan
Mr. Ranjoy Mallick

.....For the Appellant.

Mr. Shubham Gupta
Mr. Raunak Shaw

.....For the Respondents 1 to 3.

The instant appeal shall be heard on the following substantial questions of law:

1. Whether an eviction suit would be liable to be dismissed due to non-joinder of necessary parties, if the legal heirs of one of the deceased joint tenants are not brought in the array of the defendants?

2. Whether the provisions of Section 2(g) of the West Bengal Premises Tenancy Act, 1997 has got any manner of application, as observed by the first Court of appeal (or first appellate Court) in the given case where the landlord himself brought the action on the issues of subletting and default?

3. Whether the occupation of demised property by the husband of the deceased sister of one of the deceased tenants shall be treated as sub-letting or could it be held

that tenancy devolved upon him following the death of his wife?

Let the hearing of the appeal be expedited.

As Mr. Gupta, learned advocate has entered appearance on behalf of the respondent nos. 1 to 3, service of notice of appeal upon the said respondents is dispensed with. However, the appellants shall put in the requisites for service of notice of appeal upon the proforma respondent, within two weeks from date.

Lower Court Records be called for through Special Messenger at the cost of the appellants. Such cost shall be deposited within two weeks from date.

Immediately after arrival of the lower Court records, the office shall examine the same and if found complete shall issue notice of arrival of lower Court records to the learned advocates appearing for the appellants and the respondents.

The appellants are directed to prepare requisite number of informal paper books, out of Court, within four weeks from the date of service of notice of the lower Court records and to file the same after serving copies to the learned advocate appearing for the respondents.

All formalities regarding preparation of paper books are dispensed with.

Parties would be at liberty to mention the appeal for final hearing after filing of the paper books.

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Heard the learned advocates appearing for the respective parties and considered the materials on record.

As the appeal has been admitted, there shall be a stay of all the further proceedings of Ejectment Execution Case No. 113 of 2017 and the Misc. Case No. 226 of 2017 pending before the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta arising out of Ejectment Suit No 20 of 2008 till the end of July, 2024 or until further orders, whichever is earlier.

The respondents would be at liberty to file their affidavit-in-opposition to the application within two weeks from date. Reply thereto, if any, be filed within a week after the summer vacation.

The parties would be at liberty to mention the application for hearing before the appropriate Hon'ble Bench after expiry of the period, as fixed above, towards exchange of affidavits.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)