AD – 22
Ct No.16
19.05.2026
(SSS)

SAT 109 of 2026
with
CAN 1 of 2026

Srimatya Pusparani Maity and Ors.
Vs.
Sri Subal Kumar Sau and Ors.

Mr. Amit Baran Dash,
Ms. Ankana Sarkar, Advs.
.....For the appellants.

Mr. Tanmoy Mukherjee,
Mr. Kamal Mishra, Advs.
....For the respondents.

1. The records be sent down for correction of the Trial Court's decree in the light of the defects pointed out by the Additional Stamp Reporter.

2. The appeal is taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.

3. The present challenge has been preferred by the defendants in a suit for eviction on the ground of expiry of the lease granted to the defendants/appellants by efflux of time.

4. Learned counsel for the defendants/appellants argues that both the Courts below proceeded on

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the premise of a lease deed executed in favour of the predecessor-in-interest of the present appellants in the year 1994, by overlooking the legal effect of a subsequent *solenama* (compromise) decree of 1996, passed in a suit filed by the predecessor-in-interest of the appellants for specific performance of a contract.

5. It is argued that by virtue of the said *solenama* decree, the rent of the suit premises was enhanced, additional properties belonging to the present appellants were brought within the fold of the said decree as well as the terms of the original lease deed were altered. Thus, it is contended that in effect there was a novation of the original lease deed.

6. It is argued that thus, the judgments and decrees of both the Courts below, passed on the premise of the 1994 lease deed without considering the effect of the subsequent *solenama* decree of 1996, are bad in law by operation of Section 62 of the Indian Contract Act, 1872 which provides that if the parties to a contract agree to substitute a new contract for it or to rescind or alter it, the original contract need not be performed.

7. Secondly, in the *solenama* decree, it is submitted, there was a clause of renewal. Despite

the appellants having sought renewal time and again, no such renewal of the lease was granted in terms of the said clause by the plaintiffs/respondents.

8. Thirdly, it is argued that the defendants/appellants' property was also incorporated within the hotchpot of the *solenama* decree but at the time of passing of the decree by both the Courts, there was no segregation of the portion covered by the lease deed of 1994 and that belonging to the appellants.

9. Learned counsel thus argues that the impugned judgment and decrees of both the Courts below are bad in law.

10. Upon hearing learned counsel, we are unable to accept the contentions of the appellants.

11. Insofar as the *solenama* decree of 1996 is concerned, a copy of which is annexed to the stay application filed in the present appeal, it is seen that the terms of compromise incorporated therein repeatedly referred to such new terms as an amendment of the original lease deed of 1994, thus partaking the character of an amendment of the original deed of 1994 and not a new contract. Hence, the question of novation of contract does not arise.

12. That apart, even while referring to the original lease deed, the terms of the *solenama* decree referred to the tenure of the lease as that incorporated in the lease of 1994, thus making it abundantly clear that the said terms were merely an incorporation and amendment to the lease deed of 1994 and not a new contract.

13. Hence, Section 62 of the Contract Act cannot be invoked.

14. Secondly, the question of the decree passed by the Courts being inexecutable or there being no bifurcation of the property of the defendants/appellants and that covered by the lease deed (belonging to the plaintiffs) was never raised categorically before either of the Courts below. Thus, the same cannot be permitted to be raised for the first time in appeal.

15. Even otherwise, the subject matter of the eviction suit is restricted to the property covered by the 1994 lease deed, which admittedly belongs to the plaintiffs/respondents. Thus, there is no question of bifurcation between the property covered by the lease deed and the defendants' additional property, which remained the property of the defendants even in terms of the *solenama* decree, insofar as the present suit is concerned.

16. Even in the terms of the *solenama* decree, it was reiterated that the defendants/appellants remained the owner of the additional property. Thus, there cannot be any confusion requiring any segregation as such, between the defendants' property and the suit property, which was the subject matter of the lease of 1994 and, admittedly, belongs to the plaintiffs/respondents. Although the appellants' additional properties were also referred to in the *solenama* decree for the purpose of running of a cinema house by the appellants, such additional properties were not, and could not be, made a part of the let-out property, since those belong to the appellants and could not have been let out by the respondents to the appellants. As such, there was no error on the part of the plaintiffs/respondents in instituting the present eviction suit only with regard to the let-out property covered by the 1994 lease, which belongs to the plaintiffs/respondents.

17. Insofar as the assertion of the renewal of the lease deed is concerned, neither in the original lease deed nor in the terms of the *solenama* decree of 1996 do we find any provision or clause which confers any unfettered and unilateral right on the lessees/appellants to seek renewal of the lease. In the lease deed of 1994, the renewal

clause refers to the consent of the lessor being a *sine qua non* for such renewal, which position is not altered even in the *solenama* decree. Hence, the question of renewal being a matter of right of the appellants does not arise in the present case, nor is necessary for adjudication of the present *lis*.

18. In such view of the matter, since both the Courts came to concurrent findings of fact on appreciation of the evidence extensively, we do not find any substantial question of law involved.

19. Accordingly, SAT 109 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

20. Consequentially, CAN 1 of 2026 is also dismissed.

21. There will be no order as to costs.

22. Urgent certified copies of this order, if applied for, be issued to the parties upon compliance with due formalities in that regard.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)