

18th February,
2025
(AK)
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S.A.T 230 of 2024
IA No: CAN 1 of 2024

Shri Manoj Kumar Bag
Vs.
Sri Sasabindu Pradhan and others

Mr. Gopal Chandra Ghosh
...for the appellant.

Mrs. Usha Maiti
Mr. Sukanta Das
Ms. Anita Khatri
...for the respondent no.1.

1. Upon hearing learned counsel for the appellant, we admit the second appeal. The second appeal will be heard on the following substantial question of law:

Whether the learned Judge of the first appellate court committed a substantial error of law in reversing the decision of the learned Trial Judge without adverting to all the substantial findings and observations of the learned Trial Judge and/or independently assessing the total evidence on record.
2. The appellant has filed CAN 1 of 2024 seeking stay of operation of the impugned judgment and decree of the appellate court.
3. However, we feel that if at this juncture the operation of the impugned judgment and decree of the appellate court is stayed, the effect of the same

would be to revive the judgment and decree of the trial court, the necessary fallout of which would be that the decree passed declaring the disputed deed to be null and void would remain set aside and the said deed would stand declared as a sale deed, which might give an undue edge to the appellant in his preemption case.

4. However, the converse is also true inasmuch as despite pendency of the present second appeal and admission of the same, if the preemption case is dismissed on the premise of the appellate court's decision, the same would be detrimental to the interest of the appellant and might render the present second appeal infructuous.
5. As such, we dispose of CAN 1 of 2024 by moulding the relief as made herein and staying all further proceedings in the preemption application under Section 8 of the West Bengal Land Reforms Act, 1955 now pending at the behest of the present appellant before the learned Civil Judge (Junior Division), Second Court at Tamluk, District-Purba Medinipur till disposal of the present appeal.
6. In view of the appearance of the respondent no.1 through his learned advocate, service of notice of the appeal on the said respondent is dispensed with.

7. The appellant shall deposit requisites for service of notice of the appeal on the respondent nos. 2, 3 and 4 within a week from date.
8. The trial court records shall be brought by special messenger at the cost of the appellant, also to be deposited within a week from date.
9. The learned Advocate for the appellant shall prepare and file the requisite number of informal paper books without comparing with the records within four weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellant.
10. Leave is granted to the parties to mention the appeal for inclusion in the list of the appropriate learned Single Judge having determination as and when the same is made ready for hearing.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)