

28.09.2021

court no. : 09
Item no. : PB-62
matter : SAT
status : **admitted**
transcriber : nandy

SAT 131 of 2020
with
CAN 1 of 2021

Abdul Alim
Vs.
Tarak Das & Ors.

Mr. Buddhadeb Ghosal, Advocate
Mr. Younus Mondal, Advocate

.....for the Appellant

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

- 1) Whether the Court of appeal below was justified in reversing the judgment and decree of the trial Court solely on the ground of *res judicata* without ascertaining whether in an earlier suit filed by the defendant/respondent for injunction, there was any service of summons upon the appellant or they contested the said proceeding and suffered the decree?
- 2) Whether the Court of appeal below was justified in applying the principle of *res judicata* solely on the ground that the appellant was made party in an earlier proceeding as proforma defendant and, therefore, such judgment and decree is binding upon him.
- 3) Whether the principle of *res judicata* can be extended to a party against whom no relief was claimed in the earlier suit?

The appellant is directed to serve a copy of the application for stay upon the respondent by speed post and shall file the affidavit of service on the next date.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)