

Shri Prasanta Giri Vs Shri Ranjan Biswas and Another

Court: Calcutta High Court

Date of Decision: April 5, 2013

Citation: (2013) 4 WBLR 902

Hon'ble Judges: Soumen Sen, J; Prasenjit Mandal, J

Bench: Division Bench

Advocate: Ananda Haldar, for the Appellant;

Final Decision: Dismissed

Judgement

1. This second appeal is at the instance of an unsuccessful plaintiff-appellant and is directed against the judgment and decree dated March 7 of

2013 passed by the learned Additional District Judge, Andaman and Nicobar Islands, at Port Blair in Other Appeal No. 13 of 2012 thereby

affirming the order of dismissal passed by the learned Trial Judge in Other Suit No. 5 of 2007. A short fact involved in this matter is that an

agreement for sale was held between the plaintiff and defendant No. 1 on one side and the land owner i.e. defendant No. 2 on the other side for

sale of suit property. As per agreement, the total consideration money was settled at Rs. 3 lakh payable by the plaintiff and the defendant No. 1

Rs. 1.50 lakh each. The agreement stipulates that each of the vendors should be get 100 sq. mtrs of land.

2. Now the plaintiff appellant has contended that he got the possession of his share but the defendant No. 1 respondent herein had encroached 50

sq. mtrs of land therefrom. So the suit was filed for recovery of possession and other reliefs.

3. Having heard the learned advocate for the appellant and on going through the materials on record, I find that both the Courts below have come

to the concurrent findings that the vendor had received the consideration money in full and he had delivered possession of the 100 sq. mtrs of land

to each of the plaintiff and the defendant No. 1. The vendor has deposed in the suit and he has clearly admitted that both the purchasers had paid a

sum of Rs. 3.00 lakh as full consideration amount as agreed upon between the parties. Not only that the vendor has also deposed to the effect that

he had delivered the vacant possession of the suit property to the purchasers after receiving the full consideration money.

4. As per the power of attorney, i.e. exhibit No. 2 the vendees were to take immediate possession of the landed property and to construct

residential house thereon.

5. Under such circumstances, the entire consideration money was paid and the vendors were at liberty to raise construction on their respective

purchased lands.

6. Mr. Ananda Haider appearing for the department has contended that both the Courts below have failed to address the issue as pointed out in

ground Nos. 4, 5 and 13.

7. Upon perusal of the judgments of the courts below, we find that the issues involved in the suit have been properly dealt with by the Courts

below. So from the materials on records, we find that the concurrent views of both the Courts below on the fact involved in the suit have been

expressed properly. Therefore, we are of the view that there is no such substantial question of law to be framed in the appeal. Accordingly, this

second appeal cannot be entertained. The same is dismissed accordingly.