

13<sup>th</sup> May,  
2026  
(AK)  
06

**SAT 43 of 2026**  
**IA No: CAN 1 of 2026**

Saraswati Das and others  
VS  
Shib Narayan Das and another

Mr. Partha Pratim Roy  
Mr. Shibaji Das  
....for the appellants.

Mr. Kushal Chatterjee  
Mr. Oishik Chatterjee  
...for the respondent no.1.

1. Affidavit-of-service filed in court today be kept on record.
2. The present appeal arises out of a judgment of affirmance whereby both the courts granted an eviction decree against the appellants on the ground that the appellants are licensees in respect of the suit property.
3. Learned counsel for the appellants argues that the suit being in the nature of a declaration of title of the plaintiff, it was the burden on the plaintiff to prove his title.
4. In the absence of any such document, apart from certain records of rights, which are not documents of title, the learned courts below, it is contended, erred in law in decreeing the suit for eviction.
5. Learned counsel further argues that the defendants/appellants sought to produce before the appellate court suit registers to indicate that

one Mr. Routh had filed a suit against the recorded owners, thus casting a shadow of doubt on the records of rights relied on by the plaintiffs.

6. It is contended that the plaintiff/respondent no.1 also failed to prove the induction of the appellants as licensees to the suit property.
7. The appellants argue that since the appellants take the plea that they are co-owners of the suit property, claiming through the common ancestor of the parties, in the absence of any title deed being produced by the plaintiff to show their exclusive title, the courts below ought not to have granted the eviction decree.
8. However, it is well-settled that in a suit for eviction of licensee, the plaintiff is merely to prove better title than the defendant.
9. In the absence of any specific relief of declaration of title being sought, the plaintiff is not required to prove to the hilt the title of the plaintiff to the suit property.
10. In the present suit, which was merely for eviction of licensee, the plaintiff/respondent no.1 produced and exhibited documents, including extracts from the records of rights, municipal tax receipts and khajna receipts as well as other similar documents to establish that the suit property was recorded in the name of the mother

of the plaintiff/respondent no.1, through whom they claim title.

11. On the other hand, the defendants/appellants could not bring on record any specific document to show that either their names or their mother's name was recorded in respect of the subject property.
12. Although the father of both the parties was common, the inception of claim of title as per the plaint case started from the mother of the plaintiff/respondent no.1 and it was not the plaint case that their father was the original owner through whom the mother claimed, in which event the defendants/appellants still might have maintained a claim through their mother.
13. Since the documents regarding the property stand in the name of the plaintiff's mother, both the courts below proceeded on the premise that better title has been proved by the plaintiff, which is sufficient, in our opinion, in a suit for eviction of licensee.
14. In such a suit, unless the defendants establish their right either as tenants or as owners of the said property, the inevitable conclusion would be that they are either trespassers or licensees.
15. Therefore, even if no proof of grant of licence or induction of the defendants as licensees was furnished in the trial court, the law would

presume, in the absence of anything to the contrary, that the defendants did not have any legal right to stay on at the suit premises.

16. The effect would be similar whether the defendants were licensees or trespassers, being that filing of an eviction suit by a better title-holder would suffice to grant such decree.
17. Inasmuch as the reliance of the defendants/appellants on the relevant extracts of the cross-examination of PW1 is concerned, the same does not make a difference as PW1 merely stated that he could not say as to what was written in the document filed by him on recall and that he had not filed the document depositing money before the Municipality but those documents were lying with him.
18. However, from the examination-in-chief of PW1, a certified copy of which is handed over for our perusal, we find that all the relevant documents which were relied on by the courts below were marked as exhibits, not on recall but at the first instance.
19. The original records of rights bearing the seal and signature of the concerned authority was marked as Exhibit-1, Khajna receipt marked as Exhibit-2, tax receipt issued by the Baranagar Municipality was marked as Exhibit-3 and the original death

certificate issued by KMC was also marked as Exhibit-4.

20. Certified copy of the Assessment Registrar issued by the Municipality bearing the seal and signature of the concerned authority was also marked as Exhibit-5, whereas other documents including mutation certificate were also marked as exhibits.
21. In view of such overwhelming evidence of better title of the plaintiff, we do not find any legal error having been committed by either of the courts below in passing the decree of eviction of licensee.
22. Even otherwise, since in second appeals, the court does not ordinarily interfere with concurrent findings of fact, this court is of the opinion that no substantial question of law is involved in the appeal.
23. Accordingly, SAT 43 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
24. CAN 1 of 2026 is also disposed of.
25. There will be no order as to costs.
26. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**

**(Biswaroop Chowdhury, J.)**