

(2026) 08 CAL CK 2984

In the Calcutta High Court, Appellate Side

Case No : S.A.T 100 of 2026, IA No: CAN 1 of 2026

Gautam Ram & Ors.

APPELLANT

Vs

Soma Das & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

West Bengal Evacuee Property Act, 1951 — Section 18(1), sub-Section (3) of Section 18, sub-Section (2) of the said Section, 18, 17
Code of Civil Procedure — Order XLI Rule 11

Citation : (2026) 08 CAL CK 2984

Hon'ble Judges : Sabyasachi Bhattacharyya, J; Supratim Bhattacharya, J

Bench : Division Bench

Advocate : Mr. Arnab Mukherjee, Mr. Hiranmoy Debnath, Mr. Probal Kr. Mukherjee, Sr. Adv., Mr. Debdipto Banerjee, Mr. Soumen Banerjee

Final Decision : Dismissed

Judgement

1. Affidavit-of-service filed in court today be kept on record.
2. The present second appeal has been preferred against a judgment of affirmance, whereby a decree of eviction has been granted by both the courts against the appellants on the ground of reasonable requirement.
3. Learned counsel for the appellants argues that both the courts below erred in law in overlooking the legal effect of Section 18(1) of the West Bengal Evacuee Property Act, 1951 (hereinafter referred to as "the 1951 Act") which stipulates that an evacuee whose property has vested in the Committee may nevertheless at any time dispose of such property by sale, exchange etc. (except by lease) subject, however, to the evacuee intimating the Committee about the disposition and also sub-Section (3) of Section 18, which stipulates that such a disposition shall take effect on and from the date of publication of the notice referred to in sub-Section (2) of the said Section.
4. Learned counsel submits that the courts overlooked the fact that from the

transfer deed of the original landlord itself, it would be evident that the he was a resident of East Pakistan (now Bangladesh) and as such, the rigours of the 1951 Act squarely applied.

5. Secondly, learned counsel submits that from the Commissioner's report, it was found that there are total 18 rooms in the suit property, out of which 4 are occupied by the appellants/tenants.

6. Thus, the respondents/landlords have at least 14 rooms in their occupation, whereas the necessity pleaded and proved by evidence by them is for less number rooms.

7. Thus, it is argued that the suit ought not to have been decreed on the ground of reasonable requirement.

8. However, insofar as the first ground is concerned, we do not find merits in the contention of the appellants for the simple reason that the *sine qua non* and pre-condition for Section 18 of the 1951 Act being attracted is that the subject property has to be vested in the Committee contemplated under the said statute.

9. As per Section 17, the detailed procedure of the situations in which the Committee may take charge of an evacuee property, consequentially vesting the property in the Committee, has been laid down.

10. However, we do not find a single piece of evidence having been adduced by the appellants in the trial court or the first appellate court to establish that the property vested in the Committee in the first place.

11. In the absence of such vesting, the rigours of Section 18 were not attracted at all and, as such, the derivative title in favour of the plaintiffs/respondents could not be said to be vitiated.

12. Insofar as the requirement of the plaintiff/respondents is concerned, we find from the pleadings in the plaint that the requirement of the plaintiffs, pleaded therein, was more than the 7 rooms in their occupation.

13. The learned First Appellate Court, in the impugned judgment, categorically considered the Commissioner's report and came to the observation that the suit property was comprised of two parts, one portion being cemented and the other being tile-roofed.

14. The dilapidated condition, with broken doors and windows, of several rooms was also considered by the First Appellate Court, apart from the fact that from the report of the Commissioner, it appeared that building materials were dumped in a store room in some of the spaces and rooms available at the suit premises.

15. Upon a full-fledged consideration of the evidence at length, both the courts came to the finding that the plaintiffs/respondents reasonably require the suit property for their own use and occupation.

16. In such view of the matter, the question as to the reasonableness of the

requirement comes within the domain of factual findings.

17. It is well-settled that at the second appellate stage, there cannot be a re-appreciation of the evidence.

18. As both the courts below have arrived at concurrent findings of fact in that regard, it is not open for this court to entertain a second appeal on such issue.

19. Thus, we do not find any substantial question of law involved in the appeal.

20. Accordingly, SAT 100 of 2026 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

21. Consequentially, CAN 1 of 2026 is also disposed of.

22. There will be no order as to costs.

23. Urgent certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.