

14.09.2022
KC(3)

S.A.T. 106 of 2022
Amit Agarwal and Ors.
-versus-
Sumitra Devi and Ors.
With
CAN 2 of 2022

Mr. Bratindra Narayan Roy,
Ms. Swetparna Roy.....For the appellants.

Mr. Sounak Bhattacharya,
Ms. Soumi Pal.....For the respondents.

We find no reason to admit this second appeal.
The questions sought to be raised are purely factual.

Learned counsel for the appellants tries to contend that his clients were doing business with the respondents in the same premises separately. Since this was admitted by the respondents, they are estopped from claiming eviction of the appellants on the ground that they have no title.

This is a highly disputed question of fact.

Mr. Bhattacharya, learned counsel for the respondents denies the above assertion.

Moreover, we find that the appellants have not been able to disprove the finding of the learned courts below that the appellants had sold their right title and interest in the subject property to the respondents.

By no stretch of imagination, the findings of the learned courts below can be said to be perverse so as to warrant interference in second appeal.

Although we are not admitting the appeal, considering the facts and circumstances of this case we are granting the appellants time till 15th September, 2023 to quit and vacate the subject premises and hand over its peaceful possession to the respondents. This is on the condition that on and from 1st September, 2022 by the 7th of each month the appellants shall pay to the respondents occupation charges @ Rs. 5,000/- (Five Thousand) per month, in advance on an ad-hoc basis without prejudice to the rights and contentions of the parties in an appropriate forum where the question of mesne profit or reasonable occupation charges may be raised. The occupation charge for September, 2022 may be paid by 26th September, 2022.

In default of payment of any monthly occupation charge or in default of the appellants vacating the premises by 15th September, 2023, the respondents would be at liberty to take out or continue with execution proceedings for the eviction of the appellants.

Subject to the fulfilment of the above conditions, execution of the impugned decree shall remain stayed till 14th September, 2023.

The appeal (S.A.T. 106 of 2022) and the connected application (CAN 2 of 2022) are disposed of.

(BISWAROOP CHOWDHURY, J.)

(I.P. MUKERJI, J.)

