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03.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 747 of 2020
With
CAN 1 of 2020**

**Farida Khatun & Ors.
Versus
State of West Bengal & ors.**

**Mr. Sumit Banerjee.
... for the appellants**

**Mr. Partha Sarathi Ghosh,
Ms. Ipsita Ghosh.
... for the respondent No. 9**

**Mr. Siddhartha Lahiri,
Ms. Sarda Sha.
... for the respondent no. 10**

The appellants filed the writ petition being WPA 6632 of 2020 claiming right to remain in the land in question which belongs to State of West Bengal and allotted to Border Security Force, the respondent no. 10 for construction of Battalion headquarters at 17 Mile, Baishnabnagar, District Malda, Pin code 7332215.

According to the appellants, BSF authorities and the State Government are not allowing them to remain in the portion of the land.

Learned counsel appearing for the State opposed the claim of the appellant before the learned Single Judge and submitted that the appellants are only encroaches and they do not have any right to remain in the land.

Learned counsel appearing for the Border Security Force also supported the contention of the learned counsel for the State.

Learned Judge considering the submissions made by the learned counsel for the State and the learned counsel for the BSF rejected the claim of the appellants holding that the appellants failed to substantiate their title or any right in respect of portion of the said land which has handed over to the Border Security Force by the Block Development Officer. Learned Judge also held that there is no whisper of any estoppel against the respondent.

Against the said order the appellants have come out with the present appeal.

Learned counsel appearing for the appellants submitted that the appellants are in possession of the portion of land in question. An amicable settlement has been entered into in the meeting held on 12th December, 2017 that petitioner's possession will not be disturbed. Contrary to the said promise the respondents are not allowing the appellants to remain in possession and they are estopped from disturbing the appellants and prayed for allowing the appeal.

Heard Mr. Sumit Banerjee, learned counsel for the appellants, Mr. Partha Sarathi Ghosh, learned counsel for the respondent no. 9 and Mr. Siddhartha Lahiri, learned counsel for the respondent no. 10.

We have gone through the alleged settlement entered into the meeting held on 12th December, 2017.

The minutes of the meeting was recorded by the Sub-Divisional Officer, Malda Sadar, the respondent no. 5 herein and he alone signed the said minute. There is no materials to show that BSF authorities agreed for the alleged settlement and no other person except the Sub-Divisional Officer recorded the minutes of the meeting and signed the settlement. The appellants have not produced any materials to show that BSF authorities agreed to permit the appellants to remain in the portion of the land. The appellants have not produced any materials to show that they are the owners of the land. It is admitted fact that land in question belonged to the State Government and the same was allotted to BSF for establishment of Battalion headquarters. It is not the case of the appellants that they are the owners of the land.

In view of the same the contention of counsel for the State before the learned Single Judge that appellants are only encroachers is acceptable.

For the above reasons, the question of estoppel does not arise.

The appeal fails and dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)