

12.06.2024
(D/L 15)
(NKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

**MAT 28 of 2024
With
CAN 1 of 2024**

Prodhunya Mondal & Anr.
Vs.
State of West Bengal & Ors.

Mr. Nripen Das
Mr. Debanjan Das
... for the Appellants

Mr. Bikramaditya Ghosh
Ms. Supriya Singh
... for the Respondent No.6

Mr. Hirak Barman
Ms. Bedashruti Bose
... for the State

1. After hearing the parties, we find that from the copy of the record of rights which are on the records in the proceedings before the writ court, it *prima facie* appears that the land in question was settled in favour of respondent no.6, which fact is seriously disputed by the writ petitioners/appellants.
2. Learned Counsel for the appellants at the very outset submits that serious prejudice is caused to the writ petitioners/appellants in view of the observation made in the judgement under appeal giving an affirmative declaration regarding the settlement of the land in question in favour of respondent no.6,

as claimed by them. He submits that in view of such declaration in the order of the writ court, the petitioners would be left remediless in the event they approach the authorities for relief in accordance with law.

3. The petitioner/appellant is aggrieved by the observations made to this effect in the following paragraph of the writ court order and judgement under appeal :

“Upon hearing the submissions made on behalf of all the parties it appears that there is a private dispute between the respondent no.6 that is the private respondent and the petitioners. The land in question has been settled in favour of the private respondent no.6 with the classification of haat/bazaar. Whether the person in whose favour the land is recorded will permit the petitioners to run the shop room from the said land is a personal choice and discretion of the private respondent. The writ court ought not to interfere in the matter to decide the issue.”

4. The private respondent no.6 is also represented and submits that from the record

of rights, it is obvious that the lands are settled in his favour.

5. In view of the rival stands and after considering the submissions of the parties, we are inclined to interfere with and modify the order of the writ court, only in so far as the observations recorded in the above quoted paragraph and hold that it will be open to the parties to approach the appropriate authorities for relief based on their respective claims to the land in question in accordance with law.
6. With the aforesaid limited modification of the writ court order, the appeal is allowed.
7. Accordingly, the appeal and all connected applications, if any, stand disposed of.

(Madhuresh Prasad, J.)

(Partha Sarathi Chatterjee, J.)