

D/L.25.
April 8, 2025.
MNS.

SAT No. 254 of 2024
+
CAN 1 of 2024

Smt. Ruma Roy and others
Vs.
Smt. Kakali Saha and others

Mr. Soumya Dasgupta,
Ms. Tanuta Gurey,
Mr. Ritankar Das

... for the appellants.

Mr. Tarak Nath Halder,
Mr. Sayan Mukherjee

...for the respondents.

1. We find from the office report that the deficit court-fees have been put in by the appellants beyond the period of limitation.
2. On the oral prayer of learned counsel for the appellants, we condone the delay in depositing the deficit court-fees and accept the same.
3. The defect in that regard is deemed to stand cured.
4. Insofar as the required transmission of the certified copy of the impugned decree of the Trial Court to the said Court is concerned, the same shall be done by the Department after the matter is heard under Order XLI Rule 11 of the Code of Civil Procedure.

5. Accordingly, we take up the matter for admission hearing.

6. The present Second Appeal has been preferred against a judgment of reversal. The learned Trial Judge dismissed the suit for eviction of the appellants, filed on the ground that the appellants are trespassers by operation of Section 2(g) of the West Bengal Premises Tenancy Act, 1997 (in short “the 1997 Act”) on the demise of the appellants’ father, the original tenant.

7. The dismissal of the suit by the Trial Court was primarily on the ground that the plaintiffs/respondents have not proved their title in respect of the suit property.

8. The First Appellate Court, while reversing the judgment and decree of the Trial Court, arrived at the finding that since the landlord-tenant relationship between the parties has been admitted by the defendants / appellants themselves, the appellants cannot now resile from such position and are estopped from challenging such relationship.

9. Learned counsel for the appellants submits that the appellants do not come within the mischief of Section 2(g) of the 1997 Act. In support of such contention, learned counsel places reliance on the alleged admission by the plaintiffs/respondents in a previous suit for eviction filed against the appellants, where it had been admitted that the appellants are tenants in respect of the suit property.

10. It is contended by the appellants that in the teeth of such admission that the appellants are tenants, the plaintiffs/respondents are now estopped from disputing such tenancy rights.

11. However, we find that the factual aspects of the matter regarding the date of death of the original tenant and the other foundational parameters for applicability of Section 2(g) of the 1997 Act are not disputed.

12. Even if we proceed on the premise that the plaintiffs, in a previous suit which was withdrawn later, had admitted the appellants to be tenants in respect of the suit premises, the position of law remains that the appellants have been rendered trespassers by virtue of operation of law, that is, Section 2(g) of the 1997 Act, on the demise of their predecessor-in-interest, the original tenant.

13. It is trite law that there cannot be any estoppel against the statute. As such, the mere filing of a previous suit on the ground of tenancy of the appellants, which was withdrawn later, without any conclusive adjudication on such count by any competent Civil Court, cannot operate as a bar to the applicability of Section 2(g) of the 1997 Act to the appellants.

14. Thus, we find that no substantial error of law was committed by the learned First Appellate Court, nor has any substantial question of law been made out by the appellants for admission of the appeal.

15. Accordingly, SAT No. 254 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
16. CAN 1 of 2024 is also dismissed accordingly.
17. There will be no order as to costs.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)