

CRR 1134 of 2020
With
IA No. CRAN/1/2020 (Old No. CRAN 4512/2020)

Debidas Ghosal
Vs.
State of W. B. & Anr.

Mr. Sourjya Das
.....For the Petitioner
Ms. Sayanti Santra
....For the State

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through videoconference on the basis of such undertaking.

The impugned order dated 7th July, 2020 passed by the learned Executive Magistrate, Barasat Sadar, North 24 Parganas in M. P. Case No. 1076/2020 under Section 144(2) of the Code of Criminal Procedure granting a restrain order against the petitioner is the subject of challenge in this revisional application under Section 397 read with 401 of the Code of Criminal Procedure.

Learned advocate for the petitioner submits that son of the petitioner happens to be the owner of the land, and out of previous grudge and enmity, the opposite party no.2 invited a proceeding under Section 144(2) of the Code of Criminal Procedure, in connection with which the learned Executive Magistrate directed I. C., Baguihati Police Station to enquire into

the matter and submit a report with a further direction to keep a strict vigil in respect of law and order of the concerned, after passing a restrain order against the petitioner/revisionist. According to the learned advocate for the petitioner the opposite party no.2 is a Bangladeshi National being the brother of the wife of his son and the instant proceeding under Section 144(2) of the Code of Criminal Procedure is the product of family feud pending between the parties.

Ms. Santra, learned advocate representing the State submits that there is no illegality committed by the learned Executive Magistrate to prevent immediate breach of peace. Learned advocate for the petitioner takes me to travel to the impugned order dated 7th July, 2020 wherefrom it appears that in the last portion of the order under Section 144(2) Cr. P. C., there has been a restrain order recorded against the petitioner/revisionist.

The prime contention raised in this case is that the impugned order is devoid of any reasons.

Upon perusal of the impugned order it appears that while recording the restrain order, no reason was assigned. In the absence of any reason being assigned, the impugned order has lost its sanctity so as to loose its essence and flavour also. Assigning of reasons in respect of any judicial order and that too in case of restrain order is a must, which in the perception of the court would constitute the soul of the order, without which the impugned order cannot be sustained. For the reasons as

aforesaid, the impugned order is not sustainable and accordingly the same is set aside. For the family feud or any property dispute, if there be any, parties are their liberty to take resort to the appropriate forum of law available in the civil jurisdiction of the court.

With this observation/direction, the revisional application and the connected application stand disposed of.

(Subhasis Dasgupta, J.)