

CRR 52 of 2020

In Re: **Mrityanjoy Roy**

... .. Petitioner.

Dr. Navin Barik
Mr. Sandip Majumder

... for the Petitioner.

Mr. Aditi Sharnkar Chakraborty, APP,
Mr. Nilay Chakraborty

...for the Complainant.

In respect of a plot of land there is claim and counter claim. A civil suit has been filed by six persons against two defendants, one of whom, being the defendant no.2, is the petitioner in the instant revisional application. The suit is, inter alia, for declaration, cancellation and injunction and other consequential reliefs.

It is the case of the applicant that he is operating a garage from the self-same plot of land, being the subject matter of the civil suit filed on 30th May, 2016 before the Court of the learned Civil Judge (Junior Division), Siliguri, being the Title Suit 141 of 2016.

It is further submitted that the possession of the applicant on being disturbed, the applicant had made an application under Section 151 of the Code of Civil Procedure, 1908 in the pending suit. However, at the present, the concerned civil court is non-operational due to abstinence of work by the Bar. This abstinence of work, however, does not prevent the applicant from personally approaching the Court seeking redressal. The applicant without doing so filed an application under Section 144 of the Code of Criminal Procedure, 1973 wherein a police report was filed. The applicant intends to demonstrate through the police report that he is in possession of the property-in-question. The applicant also relies upon the Block Land and Land Reforms Officer's report in support of his possession.

Be that as it may, the Magistrate concerned, upon finding that a civil suit is pending, has dropped the 144 proceedings by an order dated 17th February, 2020, which is the subject matter of challenge.

After hearing the parties and perusing the materials on record, I am of the view that the applicant has remedy elsewhere in law, and if advised, should adhere to the same.

The filing of this revisional application will not in any way impair the petitioner from taking recourse of such legal provisions.

The revisional application is disposed of accordingly.

There shall be no order as to costs.

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

(Arindam Mukherjee, J.)