

20.01.2021
Sl. No.26

Court No.42
BM

CRR 98 of 2021

Joydeb Naiya & Ors.
-Vs.-
Basudeb Naiya & Anr.

Mr. Subhendu Banerjee	... for the petitioners
Mr. Falguni Bandopadhyay	
Mr. Sadik Ali	... for the opposite party no.1
Mr. Md. Anwar Hossain	
Ms. Sreyashee Biswas	... for the State

The impugned order dated 22nd December, 2020 passed by the learned Executive Magistrate, Baruipur Sub Division, South 24 Parganas in M.P Case No.2329 of 2020 under Section 144(2) of the Code of Criminal Procedure directing the petitioners to maintain status quo is the subject of challenge in this revisional application.

Learned advocate for the petitioners submits that the petitioners are the owners of the subject land and possessing the same since long, and without any lawful right, title, and interest on the subject land, the opposite party suddenly started raising construction interfering with the possession of the petitioners. It is further contended by the petitioners that the learned Magistrate has illegally passed the interim order under Section 144(2) of the Code of Criminal Procedure without recording his satisfaction.

Learned advocate representing the State submits that there is nothing left in the order impugned, whereby the

petitioners have suffered any prejudice in any manner whatsoever.

Learned advocate Mr. Bandopadhyay representing the private opposite party submits that opposite party no.1 is the bonafide purchaser of the subject land upon paying valuable consideration, and thereafter he got a sanctioned plan obtained from the concerned Panchayet to raise construction, which the petitioner, have purposely disturbed without any tangible interest on the subject land, as advanced by the petitioner. It is further contended by the learned advocate for the opposite party that the construction work, as a whole, is attempted to be disturbed thereby.

Having considered the submissions of the rival parties and bearing in mind the contents of the order it appears that there is a civil dispute pertaining to the claim over the subject land, which may be effectively adjudicated by court of law having civil jurisdiction. More so there appears to be illegality committed by the learned Executive Magistrate for not recording any satisfaction, while granting order under Section 144(2) of the Code of Criminal Procedure. The order under challenge is thus not sustainable. Accordingly, the impugned order is set aside with the observation that neither of the parties should disturb the possession of the subject land in any manner whatsoever till they approach civil court.

With this direction and observations the revisional application is disposed of.

(Subhasis Dasgupta, J.)