

CRR 309 of 2021

**Alok Mitra @ Alok Kumar Mitra & Ors.
Vs.
State of W. B. & Anr.**

In Re: An application under Section 397/401 of the Code of Criminal Procedure, 1973 read with Section 482 of the Code of Criminal Procedure, 1973.

**Mr. Ayan Bhattacharjee
Mr. Mayukh Maitra
Mr. Prasun Ghosh
..... For the petitioners
Mr. Bidyut Kumar Roy
Ms. Rita Dutta
....For the State**

The affidavit of service furnished by the petitioners is taken on record.

None appears for the opposite party no. 2.

The impugned order dated 21st December, 2020 passed by the learned Executive Magistrate, 2nd Court at Alipore in connection with M. P. Case No. 4908 of 2020 under Section 144 (2) of the Code of Criminal Procedure directing Officer-in-charge of the concerned Police Station that no illegal/wrongful act be done in the scheduled property is the subject of challenge in this revisional application.

Mr. Bhattacharjee, learned advocate representing the petitioners submits that private opposite party no.2 is admittedly defaulter in respect of the service charges payable to the Housing Society.

Adverting to the impugned order under challenge, Mr.

Bhattacharjee contends that while recording an order under Section 144 (2), Cr. P. C., learned Magistrate has not recorded his satisfaction, which is absolutely illegal.

Learned advocate representing the State submits that there lies nothing to interfere with, as the police has simply been directed to see so that no illegal activities is performed on subject land.

Having considered the rival submissions of the parties, it appears that the basic dispute between the parties rests on the allegation that the private opposite party no.2 has not liquidated his dues as regards the service charges, and other incidental dues to the housing society. Whatever might be the nature of dispute, but there should not be any restriction upon the movement of the opposite party no.2, so long he will be occupying his property under his possession in the housing society. Since no reason has been assigned as regards the recording of satisfaction, the order impugned cannot be allowed to stand.

The proceedings is thus set aside.

With these observations the revisional application stands disposed of.

(Subhasis Dasgupta, J.)