

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:
The Hon'ble Mr. Justice Jay Sengupta

CRR 839 of 2021

Samsuddin Laskar
Vs.
Jahangir Laskar

For the Petitioner : Mr. Ataur Rahman

Heard on : 22.03.2021

Judgement on : 22.03.2021

Jay Sengupta, J. :

This is an application challenging an order dated 20.02.2021 passed by the learned Sessions Judge, Diamond Harbour, South 24-Parganas in Criminal Motion No.77 of 2021, thereby admitting the revision and staying the order dated 20.02.2021 passed by the learned Executive Magistrate, Diamond Harbour, South 24-Parganas.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner had filed an application under Section 144 of the Code praying for an appropriate relief against the opposite party who happened to be

the brother of the petitioner, but was making an unauthorised construction in the joint property belonging to the two. The learned Magistrate quite rightly directed the opposite party not to disturb the peaceful possession of the petitioner and not to change the nature and character of the property in question. But, the learned revisional Court, on an application filed by the private opposite party, erred in staying an order passed by the learned Magistrate.

I have heard the submissions of the learned Counsel appearing on behalf of the petitioner and have perused the revision petition.

From the order dated 21.02.2021 passed by the learned Executive Magistrate, Diamond Harbour, South 24-Parganas, it appears that the same was delivered in a printed format and only the dates and other particulars were filled up by hand. This gives a clear inkling of a non-application of mind.

Besides, the learned Executive Magistrate seems to have acted like a civil Court in deciding the rights and the parties over a landed property. The prime thrust of the learned Executive Magistrate ought to have been confined to whether there was a likelihood of breach of peace.

Learned revisional Court merely admitted the revision and fixed a date for hearing of the same.

Considering the nature of the order passed by the learned Executing Magistrate and the manner in which the same was done, I do not find any illegality in the order passed by the learned revisional Court in staying the same.

Accordingly, the revisional application is dismissed.

However, the learned revisional Court is requested to conclude the hearing of the application as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of three months from the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)