

CRR 1304 of 2021

with

CRAN 1 of 2021

In re : An application under Article 227 of the Constitution of India.

In the matter of : **Arup Ratan Bhattacharyya**

..... Petitioner

Mr. Arka Pratim Chowdhury

Mr. Sunny Nandy

.....For the petitioner

Mr. Amal Kumar Mukherjee

Mr. Uttiya Roy

.....For the opposite party

Ms. Saswati Chatterjee

.....For the intervenor

In this revisional application, the petitioner has challenged an order dated April 16, 2021 passed in C. Case No. 1406 of 2020 by the learned Additional Chief Judicial Magistrate, Barasat, North 24-Parganas under Section 23 of the Protection of Women from Domestic Violence Act, 2005.

It has been submitted by the learned advocate for the petitioner that challenging the said order dated April 16, 2021, an appeal was preferred before the learned Sessions Judge at Barasat, North 24-Parganas which had been registered as Criminal Appeal No. 14 of 2021. Due to the pandemic situation the appeal could not be taken up for hearing and the present revisional application has been filed before this Court, challenging the self same order dated April 16, 2021.

It appears that by the order impugned, the learned Magistrate declared the right of residence of the complainant on the finding that she is a legally married wife of the petitioner.

Section 17 of the Protection of Women from Domestic Violence Act, 2005 recognises the right of a woman, in a domestic relationship to reside in the shared household, and she will continue to have that right notwithstanding her right, title, interest in the property.

It does not appear, *prima facie*, that the order of the learned Magistrate in the Court below suffers from any illegality.

In view of the fact that the appeal is pending before the learned Sessions Judge, the observations made in this order shall be operative as an interim order passed in the said appeal.

The learned Sessions Judge in the Court below will be at liberty to decide the appeal finally on its own merit without being influenced by this order.

This revisional application being CRR 1304 of 2021 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Kausik Chanda, J.)