

27.01.2021
Item No.14
Ct. No.42
CHC

C.R.R. No.1478 of 2020
(Physical Hearing)

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

In the matter of:-

Pradyut Kumar Maity
.....petitioner

Mr. S. Dutta,
Mr. Sabyasachi Bhattacharjee
... for the petitioner

Ms. Sukanya Bhattacharya,
Mr. Md. Kutubuddin
... for the State

Despite affidavit-of-service being furnished, the opposite party nos. 2 and 3 go unrepresented.

The impugned order dated 31st January, 2018 passed by Learned Additional District Judge, 2nd Court, Contai, Purba Medinipur in Criminal Revision No.4 of 2016 dismissing the revision and thereby affirming order dated 15.06.2016, passed by the Learned Sub-Divisional Executive Magistrate, Contai, Purba Medinipur in connection with Misc.Case No.276 of 2014 under Section 144 Cr.P.C. is the subject of challenge in this revisional application.

Learned advocate for the petitioner submits that petitioner has purchased the disputed land, which is a pond after the partition, and after purchase he got his name recorded in the L.R.R.O.R. Since the petitioner had his possession in respect of the pond referred above, a proceeding under Section 144(2) Cr.P.C. in connection with Misc.Case No.276 of 2014 was taken out in 2014, and in connection therewith Khejuri Police Station submitted report dated 03.12.2014 revealing that there was every chance of apprehension of breach of peace over the issue under reference in the area.

It is contended by the learned advocate for the petitioner that even after receiving such police report, the learned Executive Magistrate dropped the proceedings under Section 144 Cr.P.C. holding it to be a civil nature. Petitioner thereafter challenged the said order in revision, which was also dismissed by the revisional court. Against the dismissal of revision, petitioner has approached the jurisdiction of this Court under Section 482 Cr.P.C. contending that when the petitioner felt disturbed in respect of his possession over the pond in question due to the obstruction raised by the opposite parties, which was amply ratified in the police report, the learned court below ought not to have dropped the proceedings merely holding that the dispute was civil in nature.

Ms. Sukanya Bhattacharya, learned advocate representing the State/opposite party no.1 raises objection against the submission of the petitioner contending that the record of right so prepared in

the name of the petitioner being doubted by the private opposite parties, the dispute surfaced between the parties has assumed the status of civil dispute, requiring adjudication by court of law having civil jurisdiction.

Whether the subject land was held in ejmal or in propriety right of the petitioner is a question requiring adjudication with collection of evidence by civil court. When there was an objection raised by the private opposite parties against recording of L.R.R.O.R., the appropriate relief, now proposes to be had, from this Court cannot be extended merely upon consideration of a police report, which was furnished in the year 2014, that is as long as more than six (6) years before. When it is the specific claim of the petitioner that he is in exclusive possession of the subject property for the last six (06) years even after the proceeding under Section 144 Cr.P.C. was dropped, and which was subsequently affirmed in 2018, the Court is of the view that no intervention is justified at the moment to redress the petitioner for a civil dispute, which is left to be decided by the civil court. The revisional application is thus without any merits requiring no interference.

Accordingly, the instant revisional application stands dismissed.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)