

16.12.2021
Court No.2
Sl no. 41.
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*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

C.R.R 101 of 2021

In the matter of : Rakesh Agarwal

..... petitioner

Ms. Suman Sehanabis (Mandal)
Ms. Arpita Saha

... for the petitioner

Mr. Aditi Shankar Chakraborty

..for the State

..

The petitioner has preferred this application against the orders dated March 15, 2021 and March 30, 2021 passed by the learned Sessions Judge, Jalpaiguri in connection with Criminal (Revision) No.43 of 2021.

According to the petitioner, the learned Sessions Judge erred in law in passing the order of stay of operation of the order passed by the learned Executive Magistrate, Jalpaiguri. By an order dated February 9, 2021, the learned Executive Magistrate, Jalpaiguri in exercise of power under Section 144(2) of the Code of Criminal Procedure passed an order upon the police authorities to see that the petitioner is not disturbed by the opposite party in any way and also ensure that the peace and tranquility is maintained over the area. Aggrieved, by the said order, the opposite party nos. 2&3 preferred a revision before the learned Sessions Judge, Jalpaiguri. The learned Sessions Judge, Jalpaiguri by an order dated March 15, 2021 granted an interim stay of the order dated February 9 ,2021 on the ground that subjective satisfaction of the learned Magistrate was not recorded.

Aggrieved by the order of the learned Sessions Judge, the revisional application has been filed.

This Court does not find any illegality in the order impugned. Prima facie, it appears that the dispute is over a land. The subjective satisfaction of the learned Magistrate which is required to be recorded in exercise of power under Section 144(2) of the Code of Criminal Procedure has not been done. Thus, there is no scope for interference in the revisional application.

The learned Sessions Judge, Jalpaiguri is directed to dispose of the revisional application as also the application for stay within one month from the next date fixed. As the petitioner is before this Court and is aware of the proceedings before the learned revisional Court, no further notice is required to be served upon the petitioner and the learned revisional Court, that is, the Sessions Judge, Jalpaiguri will dispose of the Criminal Case No. 43 of 2021 along with all pending applications within the time period fixed by this Court. All observations made in this revisional application are tentative and the revisional application shall be disposed of on its own merits and this order will not have any influence on the proceedings.

Accordingly, C.R.R. 101 of 2021 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)