

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 333 of 2022

Sekh Abdur Rashid
Vs.
The State of West Bengal & Ors.

For the Petitioner : Md. Younush Mondal

Heard on : 8th February 2022

Judgment on : 8th February 2022

The Court:

This is an application challenging an order dated 07.12.2021 passed by the learned Sessions Judge, Hooghly in Criminal Motion No. 36 of 2021 arising out of an order passed by the learned Executive Magistrate under Section 144 of the Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is suffering from disability. He had installed a tube-well in the land of one Serijul Sekh. After the demise of the said Serijul, distant relations of that person came to take possession of the tube-well. This led to a dispute between the parties. The petitioner initiated a proceeding under Section 144 of the Code. Among other things, by an order dated 06.08.2021 the learned Sub-Divisional Executive Magistrate, 2nd Court, Sadar, Hooghly, in M.P. Case No. 902 of 2021 passed a direction upon the others not to collect money from the shallow tube-well illegally. Subsequently, other

orders were also passed asking the parties to maintain peace. However, on an application filed by the other side, the learned revisional Court set aside the above portion of the order dated 06.08.2021. Since the petitioner had installed the shallow tube-well it was his right to collect the money for the same. In view of the same the impugned order needs to be interfered with.

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

It appears that the learned Sessions Judge has only dealt with a part of the order passed by the learned Executive Magistrate, on 06.08.2021. The said portion of the order that was set aside is quoted as under:-

“O.Ps. are directed not to collect the money from shallow tube-well illegally and not to disturb the F.P., without the due process of Law.”

By passing the above captioned portion of the order the learned Executive Magistrate has indeed acted like a learned Civil Court. Therefore, such portion of the order is not tenable in law.

The learned Sessions Judge was, thus, absolutely right in holding that an Executive Magistrate could not pass such a direction.

As such, I do not find any illegality in the impugned order. Therefore, the revisional application is dismissed.

However, there shall be no order as to costs.

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

(JAY SENGUPTA,J)