

02.12.2022
S/L Nos.36 & 37
KS

C.R.L.C.P. 9 of 2022
Sukhendu Bikash Das
Vs.
Sri Pronab Patra & Ors.
In
CRR 1492 of 2022
Sukhendu Bikash Das
-Vs.-
The State of West Bengal & Ors.

Ms. J. Biswas
Mr. B. Das
.....For the Petitioner/Applicant
Ms. Faria Hossain
Ms. Baisali Basu
.....For the State

There has been exchange of affidavits between the parties and the Supplementary Affidavit has also been filed today on behalf of the contemnors/respondents.

The genesis of the dispute relate back to an order dated 11.02.2022 in a revisional application preferred by the respondents in Criminal Revision No.487/2018. The said revisional application was preferred by the respondents before the Learned Sessions Judge and after staying the proceedings the Learned Sessions Judge transferred the revisional application for being heard out by the Learned Additional Sessions Judge, 1st Court, Paschim Medinipur. The proceedings were almost stagnated and it was routinely fixed when an application was taken out on behalf of the respondents, praying for a direction upon Officer-in-Charge, Debra Police Station not to restrain the respondents

(herein)/petitioners from cultivating their land. The same was granted with a direction by the Learned Additional Sessions Judge upon the Officer in Charge, Debra Police Station to allow the respondents to cultivate their land. The said order was subject matter of consideration before this Hon'ble Court in CRR 1492 of 2022 and initially a Co-ordinate Bench after observing such an order being passed in the revisional application, the genesis of which arose in respect of a proceeding under Section 144(2) of the Code of Criminal Procedure was pleased to stay the proceedings. Subsequently on 14.06.2022 the order dated 11.02.2022 was again stayed and direction was passed to effect service upon the private opposite parties through the learned advocate appearing for the State. In spite of the order of stay dated 11th February, 2022 it was contended that the opposite parties continued their cultivation and, as such, a contempt application was preferred at the instance of the petitioners against the respondents. Notice was issued by this Court and report was also called for from the respective department to assess regarding the price of the crop/paddy which was cultivated in the land.

Learned advocate appearing for the respondent nos.2 to 7 submits that the respondents had been cultivating such land for a considerable period of time and the Learned Executive Magistrate had no authority to interfere with the same. To that effect learned advocate draws the attention of this Court to the different documents which related to the applications which have been filed before the different

authorities. However, learned advocate is unable to satisfy this Court why an application was taken out before the Learned Sessions Court on 11th February, 2022 for allowing the respondent nos.2 to 7 to allow them to cultivate the land. The said application primarily seem to be unwarranted in the background of the nature of the revisional application which was preferred before the Learned Sessions Court and the interim order was already been enjoyed by the respondent nos.2 to 7. To that effect the contention of the applicants/petitioners and assertions before this Court cannot be ruled out that in spite of direction of this Court staying the order dated 11.02.2022 the respondent nos.2 to 7 carried out the cultivation and harvested the crops, I am unable to satisfy my conscience as to how the respondent nos.2 to 7 defied the order of this Court when there was a specific direction staying the order dated 11th February, 2022. I hold the respondent nos.2 to 7 to have violated the order dated 14th June, 2022. So far as the punitive action which is required to be inflicted, I direct that since it reflects that some of the respondents belong to Scheduled Tribe community exemplary fine or punishment should not inflict upon them.

Accordingly, each of the respondent nos.2 to 7 would pay a fine of Rs.1,000/- to be deposited with the Treasury of the District Magistrate. Such payment must be made within a period of four weeks from date. In case of any default by any of the respondent, they/he would have to suffer simple imprisonment for one month. The Learned District &

Sessions Judge, Paschim Medinipur would monitor, compliance and execution of the order.

With the aforesaid observation, C.R.L.C.P. 9 of 2022 is disposed of.

In view of the observations made in the contempt application, the order dated 11.02.2022 passed by the Learned Additional Sessions Judge, 1st Court, Paschim Medinipur being in gross negligence of the basic provisions of law relating to Section 144(2) of the Code of Criminal Procedure, I am of the opinion that the said order is liable to be set aside.

As the statutory period which is involved in the provisions relating to Section 144(2) of the Code of Criminal Procedure has expired long ago, I hold that Petition Case No.625 of 2018 as infructuous, so far as the revisional application is concerned, which is Criminal Revision No.487 of 2018 pending before the Learned Additional Sessions Judge, 1st Court, Paschim Medinipur, the same also would be deemed to be infructuous.

In view of the aforesaid observations made by this Court, CRR 1492 of 2022 is allowed.

As the act of the State recurred loss to the petitioner who has suffered and if the Officer in Charge, Debra Police Station had been vigilant in complying the order passed by this Court the circumstances would not have resulted, the petitioner before this Court should be compensated.

Ms. Biswas, learned advocate appearing for the applicants/petitioners have submitted that they have suffered loss because of the cultivation being done and the report of the Assistant Director of Agriculture, Debra Block, Paschim Medinipur dated 31/08/2022 reflects that a sum of Rs.39,571.2 would be the net profit of cultivation and harvest in respect of paddy in the plot of land which has been referred to, I direct the District Magistrate, Paschim Medinipur to disburse such amount in favour of the petitioners and recover the same from the appropriate police authority who were responsible for implementing the order.

Petitioners would be at liberty to recover such money, if not disbursed within a period of one year by invoking the jurisdiction of the appropriate Civil Court.

Needless to state that any observation made by this Court is restricted to the disposal of the revisional application in respect of the proceedings before the Learned Executive Magistrate and the orders passed in Criminal Revision No.487 of 2018 pending before the Learned Additional Sessions Judge, 1st Court, Paschim Medinipur and the present revisional application. This Court has not assessed regarding the facts relating to the title of the property or the rights of the party in cultivating the said land.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)

