

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2046 of 2022

**Kalawati Sonkar
Vs.
Smt. Arati Debi Singh (Jha) and Anr.**

For the petitioner: Mr. Debasis Kar

Item No.245 ML

Heard & Judgment on: 14.07.2022

Bibek Chaudhuri, J.

In the instant revision an order dated 8th June, 2022 passed by the Executive Magistrate, Barrackpore in a proceeding under Section 144(2) of the Code of Criminal Procedure protecting the petitioner/opposite party from any unlawful encroachment is assailed.

It appears from the impugned order that the Executive Magistrate, Barrackpore has not stated prima facie ground of his satisfaction that the opposite party before him tried to encroach upon the property of the petitioner unlawfully.

Moreover, the alleged dispute between the parties is absolutely civil in nature. Encroachment of land by a private party cannot be a ground for drawing up a proceeding under Section 144(2) of the Code of Criminal Procedure.

In view of the reason stated above, this Court finds that the order dated 8th June, 2022 is palpably illegal and cannot be sustained. This Court does not feel even to direct the petitioner to issue notice upon the opposite party and the instant revision is **allowed** setting aside the impugned order dated 8th June, 2022.

(Bibek Chaudhuri, J.)