

13.07.2022

BP
Sl. 174
Court no.42.

CRR 2141 of 2022

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

In the matter of: Anwar Ali Khan & Ors.
...petitioners

Mr. Amitabha Ghosh
Ms. Nabanbita Chatterjee
..for the petitioners.

Having heard the learned advocate for the petitioners and on perusal of the materials on record, it appears that the petitioners have claimed ownership over the disputed plot of land by virtue of a deed of gift. On the other hand the opposite party no.1 claimed to be the owner of the selfsame plot of land. She filed an application under Section 147 of the Code of Criminal Procedure before the learned Executive Magistrate, Contai which was registered as Misc. Case No. 1712 of 2021 alleging inter alia that she is the owner of the disputed plot of land and the said land is being used as ingress and egress to her other land.

The opposite party no.1 has also tried to encroach upon the land and demolish the boundary wall.

I have perused the impugned order and the materials on record. The dispute is essentially a private dispute between the petitioners and the opposite party no.1 regarding ownership of the property in question. Such dispute is civil in nature and the efficacious relief lies in filing a suit in civil court. The learned Executive Magistrate cannot allow any application which is prohibitory in nature under Section 147 of the Code of Criminal Procedure.

In view of the above reasons, this court is of the view that the instant revision can be disposed of at the motion stage allowing the prayer of the petitioners. The impugned order dated 3rd February, 2022 passed by the Executive Magistrate, Contai in Misc. Case No. 1712 of 2021 under Section 147 of the Code of Criminal Procedure is set aside.

The instant revision is accordingly disposed of with the above order.

(Bibek Chaudhuri, J.)

