

27.09.2022
S/L No.84
KS

C.R.R. 1812 of 2021
With
IA No. CRAN 3 of 2022 [Not Found]
Ashoke Kumar Chowdhury & Ors.
-Vs.-
The State of West Bengal & Ors.

Mr. Tapan Dutta Gupta
Mr. Pinaki Dhole
Mr. Pover Anam
Mr. Debjit Bhattacharya

..... For the Petitioners

Mr. Narayan Prasad Agarwala
Mr. Pratick Bose

.....For the State

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Arjun Samanta
Mr. Sayan Mukherjee

.....For the O.P. Nos.2 to 8

The revisional application was preferred challenging the order dated 06.11.2020 passed by the learned Sub-Divisional Magistrate (Sadar), Malda in Case No.192/P of 2019 under Section 133 of the Code of Criminal Procedure.

I have perused the order passed by the learned Magistrate on 06.11.2020 and I find that after considering the report of B.L. & L.R.O., it was opined that there is no urgency and, as such, the provisions of Section 133 of the Code of Criminal Procedure is not attracted. The learned Executive Magistrate thereafter decided to proceed under Section 147 of the Code of Criminal Procedure and called for a fresh report from B.L. & L.R.O. The act and action of the Sub-Divisional

Magistrate (Sadar), Malda reflects that the said authority is acting as a Civil Court.

Having regard to the fact that the Case No.192/P of 2019 was initiated on 15.11.2019 and more than two years and nine months have passed, since then, I am of the opinion that Case No.192/P of 2019 would be deemed to be infructuous and the parties would be at liberty to approach the Civil Court for deciding the issues. The purpose for which Executive Magistrate have been authorised under the Code of Criminal Procedure is for the limited purpose of exercising the jurisdiction in urgent cases of nuisance, apprehended danger and for maintenance of piece and tranquility. The Executive Magistrate cannot behave as a Civil Court. Henceforth, the issues so canvassed by the applicant before the learned Executive Magistrate would approach the Civil Court and the Civil Court would decide whether there is illegal structure/unauthorized construction which is creating obstruction for the public at large or whether the person who has constructed had right, title and interest in the same and the construction was adhering to the provisions of law. As Case No.192/P of 2019 has been held to be infructuous, the present revisional application automatically would become infructuous.

Accordingly, C.R.R. 1812 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

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.)