

01.04.2022
S.D.
17.

**C.R.R. 2865 of 2015
With
CRAN 2 of 2016 (Old CRAN 587 of 2016)
(Via Video Conference)**

In the matter of: Smt. Chhabi Dutta

.....Petitioner.

Mr. Pravas Bhattacharya

Mr. Pratick Bose

.....For the State.

None appears on behalf of the petitioner and opposite party nos.

1 and 2.

Mr. Pravas Bhattacharya and Mr. Pratick Bose, learned advocates appear for the State. The appointments of the State advocates may be regularized by the concerned authority.

The revisional application under Sections 397/401/482 of the Cr.P.C. is listed today for hearing. This application has been filed assailing order dated 11.8.2015 passed by learned Sessions Judge-in-Charge, Paschim Medinipur in Criminal Revision No. 454 of 2015 arising out of order dated 7.8.2015 passed by learned Executive Magistrate, Medinipur in M. Case No. 363 of 2015 under Section 144(2) of the Cr.P.C. The main contention of the petitioner is that land measuring 84 decimals in Plot Nos. 73, 105 and 106 under L.R. Khatian No. 51 within Police Station – Salboni, District – Paschim Medinipur previously belonged to Dulal Palmal who executed a deed of

agreement for sale of the said land on 1.10.2007 in favour of the petitioner on receipt of a consideration of Rs.1,10,000/- to meet the marriage expenses of his younger sister and handed over possession of the said land and since then, the petitioner is possessing and cultivating the land without any encumbrance from anyone.

On 30.9.2013, Dulal Palmal died leaving behind his widow, Bulu Rani Palmal and son Tridip Palmal. They filed Title Suit No. 169 of 2014 for declaration and injunction, which is being contested by the petitioner over this dispute. Opposite party men took steps to take forcible possession of the land and filed a petition before the Executive Magistrate, Paschim Medinipur bearing no. 363 of 2015 under Section 144(2) of the Cr.P.C. After hearing the matter, Executive Magistrate Paschim Medinipur passed an order on 10.7.2015 calling for report from the B.L. & L.R.O., Salboni Police Station and Inspector-in-Charge of Salboni Police Station to ascertain possession of the petitioner over the land in question and also directed the police to see that there is no breach of peace over the issue during the interregnum.

On 7.8.2015, the matter was taken up for hearing and learned Executive Magistrate directed Inspector-in-Charge, Salboni Police Station to maintain peaceful possession of the petitioner so that opposite party members did not disturb in cultivation. This order was challenged by the opposite party in Criminal Revision No. 554 of 2015 in the Court of District and Sessions Judge, Paschim Medinipur assailing order dated 7.8.2015. Learned Sessions Judge on 11.8.2015

passed an order staying order dated 7.8.2015 passed by the Executive Magistrate till 16.11.2015. Being aggrieved, the petitioner who is the opposite party in M.P. Case No. 363 of 2015 before the Executive Magistrate has challenged the order passed by learned Sessions Judge, Paschim Medinipur.

Heard learned advocates for the State. It is submitted that the order passed by the Executive Magistrate is remained in force for a period of two months under section 144 (4) of Cr. P.C. Thereafter, there is no scope of assailing the order.

In view of the provision under Section 144 (4) of the Cr.P.C., I am of the view that the order passed by the Executive Magistrate has no force and the proceedings before the learned Sessions Judge in Criminal Revision No. 454 of 2015 is also inconsequential. The present application is infructuous and the same is dismissed on its merit.

All connected applications are also disposed of. Interim order, if any, stands vacated.

Let a copy of this order be sent to learned Sessions Judge, Paschim Medinipur and another copy be sent to the Executive Magistrate, Paschim Medinipur for information.

(Ananda Kumar Mukherjee, J.)

