

28.11.2022

Court No.35
Item No. 2

D.Hira

CRR 3917 of 2016

**Susanta Bera
Vs.
Shibabrata Chatterjee**

Mr. Ashim Kumar Routh,
Ms. Ananya Mondal.

... For the petitioner

Petitioner is aggrieved with the orders dated 26th February, 2016 and 10th November, 2016 passed by the Executive Magistrate in M.P. Case No. 2479 of 2015 under Section 144(2) of the Code of Criminal Procedure.

This has prompted him to prefer this revision in this Court challenging both the orders as above and also the entire proceedings being M.P. Case No. 2479 of 2015.

It is submitted that during pendency of the present case, he though being the lawful owner of the property is being constantly resisted to exercise his right over the property by making construction etc. and thus, he is urging about his immense prejudiced due to the pendency of the said proceedings before the Executive Magistrate.

According to the petitioner, the proceedings are only baseless and based on untrue facts and prejudicial to his interests as to the property.

It is evident that the impugned order has been passed in exercise of power under Section 144, Cr.P.C. by the Executive Magistrate, back in the year 2016 i.e., on 26th February, 2016.

Section 144(4) provides as follows:-

“4. No order under this section shall remain in force for more two months from the making thereof:”.

It is, therefore, categorically and unambiguously provided that an order passed under Section 144 of the Code of Criminal Procedure shall be effective only and mandatorily for the period of 60 (sixty) days from the date of passing of the said order.

Evidently in this case the impugned order passed under Section 144 (2) of the Code of Criminal Procedure by the Executive Magistrate has lost its force by operation of law.

Hence, the same and the proceedings connected therewith shall have no legal sanctity after expiry of the period of existence of the same as provided in law.

Considering the said aspect, it is directed that the revision case is disposed of in terms of the observations as made above.

All pending applications, if any, are consequently disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)