

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3461 of 2011

Narendra Kaur & another. ***Petitioners***

-versus-

Harjeet Singh. ***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER
04.05.2022

Order No.

18. 1. This matter is taken up through Hybrid mode.
2. The petitioners in this application under Section 482 of Cr.P.C. have challenged the order dated 20.08.2011 passed by the learned Addl. Sessions Judge, Rourkela in Criminal Revision No.11 of 2011 confirming the order dated 04.06.2011 of the learned Executive Magistrate, Panposh at Uditnagar, Rourkela passed in Criminal Misc. Case No.4451 of 2010.
3. Heard the learned counsel for the petitioners and the learned counsel for the opposite party.
4. As it appears, the dispute between the parties is regarding possession of the house situated at Plot No.271/1102 of Khata No.38, Basanti Nagar and the opposite party is staying there since long. Since the petitioners had given threat to the

opposite party to enter into the house of the opposite party by breaking open the lock, a proceeding under Section 144 of Cr.P.C. was initiated before the learned Executive Magistrate, Panposh at the instance of the opposite party against the petitioners and, as such, the learned Executive Magistrate vide order dated 07.03.2011 restrained the petitioners and their agents from interfering with the peaceful possession of the opposite party over the disputed land for a period of sixty days. Then the learned Executive Magistrate while converting the said 144 Cr.P.C. proceeding to 145 Cr.P.C. proceeding has passed the following order;

“From the materials on records and the above facts and circumstance of the case as outlined in the forgoing paragraphs, I am, therefore, satisfied that there are sufficient grounds for converting this proceeding U/s.144 CrPC to U/s.145 CrPC and pass an order U/s.145(4) CrPC to declare the absolute possession of the 1st party and confirmed over the disputed land and building, which is situated over the Plot no.271/1102 of Khata No.38, Basanti Nagar, Unit no.43; Municipality Holding no.-37, measuring an area of 0.06 Dec., And restrained the 2nd Party members from going upon the land and house in dispute. The 2nd party is directed to vacate the Western side half constructed house of the 1st party, where they are staying unlawfully.”

5. A revision petition being carried on against the aforesaid order was dismissed by the learned Revisional Court taking note of the facts and circumstances of the case, especially the Court in a 145 Cr.P.C. proceeding is concerned with the possession of the land and not with the title. Admittedly, the documents were to show that the opposite party-First party member delivered possession of the disputed land to the petitioners-second party members. After dismissal of the revision petition, this application

has been filed by the petitioners on the ground that without giving them reasonable opportunity of hearing, the aforesaid order has been passed by the learned Executive Magistrate. However, the aforesaid being an interim arrangement to meet the emergency and does not decide the title of any of the parties and the learned Executive Magistrate, taking note of the fact situation passed the aforesaid order which has been confirmed by the learned Revisional Court, this Court finds no merit in this CRLMC which is in the guise of a second revision.

6. Accordingly, this CRLMC being devoid of merit stands dismissed.

(S. Pujahari)
Judge

MRS

