

M/L24  
02.01.2023  
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C.R.R.215 of 2021

In Re: An application under Section 482 of the Code of Criminal Procedure;

Abu Jafar Halder  
Versus  
The State of West Bengal and another

Mr. Md. Anwar Hossain,  
Ms. Sreyashee Biswas.  
...for the State.

The revisional application was preferred challenging the order dated 05.01.2021 passed by the learned Additional District and Sessions Judge, Diamond Harbour, 24 Parganas (South) in Criminal Motion No.03 of 2021.

Mr. Anwar Hossain, learned advocate appearing for the State draws the attention of this Court to the order dated 10.12.2020 passed by the learned Executive Magistrate, Diamond Harbour in Case No.MF 1699 of 2019 under Section 144 of the Code of Criminal Procedure.

The order dated 10.12.2020 reflects that the learned Executive Magistrate directed for not disturbing the peaceful possession of the present petitioner over the portion of the suit plot(s) under the existing possession of the petitioner till the next date so fixed i.e, 19.02.2021. It was further directed that the opposite parties should not change the nature and character of the suit plot(s) by way of any construction till the next date fixed.

The nature of the order so passed relates to civil dispute

regarding the construction and possession. The final determination of which can only be made by civil court.

Having regard to the fact that the order was passed on 10.12.2020 and more than two years have passed since then, I hold that the proceedings of MF No.1699 of 2019 has become infructuous.

The petitioner and the opposite parties would be at liberty to approach the civil court for their remedies.

In view of the observations made above, CRR 215 of 2021 do not call for any interference in respect of the order so passed in Criminal Motion No.03 of 2021.

Accordingly, CRR 215 of 2021 is dismissed.

Pending application, if any, is consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Tirthankar Ghosh, J.)**