

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 727 of 2019

Probhunath Prasad

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Debapratim Guha,
Ms. Anchita Sarkar.

For the State/Opposite Parties : None

Heard on : 06.06.2023

Judgment on : 21.06.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of proceedings being G.R. Case No. 1001/18 in connection with Pradhan Nagar Police Station Case No. 193 of 2018 dated 17.04.2018 under Sections 447/120B of the Indian Penal Code read with Section 3 of the Prevention of Damage to Public Property Act and Section 4D/49A of the West Bengal Land Reforms Act pending before the Learned Additional

Chief Judicial Magistrate, Siliguri, Darjeeling against the petitioner in connection with the aforesaid case.

2. The petitioner's case is that the petitioner has been arraigned as an accused in the instant case being G.R. Case No. 1001/18 in connection with Pradhan Nagar Police Station Case No. 193 of 2018 dated 17.04.2018 under Sections 447/120B of the Indian Penal Code read with Section 3 of the Prevention of Damage to Public Property Act and Sections 4D/49A of the West Bengal Land Reforms Act which was registered for investigation on the basis of a written complaint lodged by the complainant namely Dipankar Mandal, Assistant Engineer, Siliguri N.H. Sub Division – 1, Matigara, Siliguri.

3. **The allegations in the First Information Report were inter alia as follows:-**

“.....that while inspection of NH 31 the complainant has noticed some unauthorized occupation and construction was going on within the Right of Way of the left side of NH 31 from 574 kmp (Siliguri Regulated Market) to 574.350 Kmp (Champasari More); that the said construction needs to be prevented as early as possible as there will be widening of road pavement of NH 31 at an early date. The Government boundary land has been demarcated by the concerned B.L. & L.R.O.....”

4. It is submitted that the petitioner is absolutely innocent and has been falsely implicated in the instant case.
5. A notice under Section 57 of the West Bengal Land Reforms Act was issued upon one Late Bhuichal Singh @ Bhuchal Singh son of Ghuguri Singh and others in Misc. Petition Case No. 10/18 wherein it was

specifically stated that RS Plot No. 522 which is 3.19 acres in area, belongs to him regarding encroachment and construction on Government land, and vide order dated 16.04.2018 proceeding was started against unidentified persons under Section 144(2) Cr.P.C. by the SDM, Siliguri.

6. In the month of May, 2018, son of the said Late Bhuichal Singh @ Bhuchal Singh namely Biswanath Singha @ Singh filed an application under Article 226 of the Constitution of India inter alia claiming on the basis of the Record of Rights that the disputed property belongs to his father namely Bhuichal Singh @ Bhuchal Singh and he was holding the status of Raiyat in respect of such land. After the demise of his father, the said Biswanath Singha @ Singh built certain shop rooms on the said land wherein he has been conducting his business.
7. The petitioner states that from the averments and the annexure to the said writ petition being W.P. No. 5798(W) of 2018, it is quite clear that the disputed land may be a private property and illegal construction if any has been made by the owner or his legal heirs and the petitioner has got no role to play.
8. After admission of the aforesaid writ petition, the respondent no. 9 in the said writ petition being the Head Assistant of Siliguri Regulated Market Committee filed an affidavit in opposition wherein it was stated that **the predecessor in interest of the petitioner in the writ petition had already received rent compensation, acquisition compensation as well as interest.**

9. **Mr. Debapratim Guha, learned counsel for the petitioner** has submitted that the instant proceeding is an instrument of harassment and oppression and in the interests of justice the same is liable to be quashed. The continuation of the impugned proceedings shall amount to an abuse of the process of the Court and it is expedient in the interest of justice that the impugned proceedings be quashed and/or set aside in order to prevent the abuse of the process of Court or otherwise to secure the ends of justice.
10. **None appears for the State/Opposite Parties, in spite of due service.**
11. **The present revision** arises out of a complaint filed by Assistant Engineer, Siliguri N.H. Sub Division – 1, alleging unauthorized occupation and construction of on Government land. A specific case has been registered as Pradhan Nagar P.S. Case No. 193 of 2018 under Sections 447/120B of the Indian Penal Code read with Section 3 of the Prevention of Damage to Public Property Act and Sections 4D/49A of the West Bengal Land Reforms Act.
12. From paragraph 11 of the revisional application it appears that in the writ petition the respondent no. 9 therein being the Head Assistant of Siliguri Regulated Market Committee filed an affidavit-in-opposition where it was stated that the predecessor-in-interest of the petitioner in the writ petition had already received rent compensation, acquisition compensation as well as interest.
13. **Section 6 of the Prevention of Damage to Public Property Act provides:-**

“6. Saving.- The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force, and nothing contained in this Act shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might apart from this Act, be instituted or taken against him.”

14. It is the contention of the petitioner that the disputed land is not in his name and **that he has not been named in the FIR**, which has been registered against unknown persons.
15. The case relates to unauthorized occupation and construction on Government land. The local (Govt.) authorities have initiated the proceedings which if interfered with would clearly amount to an abuse of the process of law/Court. The involvement of persons concerned (presently unknown) is the subject to investigation and matter of trial.
16. **The revisional application being CRR 727 of 2019 is thus dismissed.**
17. No order as to costs.
18. All connected applications, if any, stands disposed of.
19. Interim order, if any, stands vacated.
20. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.
21. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)