

23.11.2023
Sl.No. 44
Ct. 32
Amalranjan

CRR 984 of 2017

Bikashkali Das
Vs.
State of West Bengal and ors.

No one appears on behalf of either of the parties.

On earlier occasion, also no one represented the petitioner. No accommodation sought for.

In view of the facts and as the case is pending since 2017, this case is required to be disposed of on merit as the petitioner has challenged the impugned order with regard to its correctness, legality and propriety.

The petitioner has filed this application under Section 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973 challenging the order dated 7th March, 2017 passed by the learned Executive Magistrate, Sadar, Hooghly in M.P Case No. 213 of 2017 under Section 144 of the Criminal Procedure Code.

The specific case of the petitioner is that the petitioner along with other co-owners became the lawful owners by way of inheritance and possesses the suit property lying and situated under J.L. No. 168, R.S no. 589, L.R. Plot no. 656, area 99 Satak Sali and R.S. No. 143, L.R. Plot no. 165, area 36 Satak Sali and Rs. No. 622, L.R. Plot no. 733, area 108 Satak Sali (hereinafter referred to as the said "property") and enjoying the said property by paying appropriate taxes before the concerned authorities.

The opposite party nos. 2 and 3 being an unlawful recorded bargadar in the said property have created disturbance to the peaceful possession of the petitioner due to political influence in the area and further started disturbance in different manner to the present petitioner without any lawful authority.

The opposite party nos. 2 and 3 have filed an application under Section 144 of the Cr.P.C. before the learned Executive Magistrate, Sadar, Hooghly against the petitioner and obtained an ex parte order as inter alia :

“Heard the learned Advocate of the petitioner.

Issue notice upon O.Ps.

O.Ps shall file show cause reply.

They should abstain from encroaching the suit plot illegally.

O/C Gurap & BL & LRO, Dhaniakhali, are directed to enquire a report by 2 wks.”

Impugned order passed by the learned Executive Magistrate, Sadar, Hooghly, is illegal because said impugned order passed without considering actual case.

Accordingly, the petitioner prayed for setting aside the said order.

Considering the case of the petitioner as well as on perusal of the documents annexed with the application, this court does not find any illegality in the impugned ex parte order passed by the learned Executive Magistrate, Sadar, Hooghly on 7.3.2017 and furthermore in view of the rules specified for implementation of Section 144 of the Cr.P.C that

order shall not remain in force for more than two months from the date of making of such order provided under the State Government's discretion it can be extended to six months.

Accordingly, this case has become infructuous. **CRR 984 of 2017** is, thus, dismissed.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Ajay Kumar Gupta, J.)