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08.02.2023.
b.r.
Crt.236

C.R.R 2164 of 2010

In the matter of : Baishali Mukherjee. ...petitioner.

Mr. Sourav Chatterjee
Mr. Priyom Biswas
..... For the petitioner.

Mr. S. Ganguly
Mr. Sumanta Ganguly
..... for the OP No.2.

This criminal revision application challenges the judgement and order passed by learned Additional Sessions Judge, 3rd Court, Hooghly in Criminal Appeal No. 33 of 2009 reversing the order dated 24th of September, 2009 passed by Learned Judicial Magistrate, 5th Court, Hooghly Sadar in MC Case No. 272 of 2009.

Briefly stated Smt. Baishali Mukherjee took out an application under the Protection of Women from Domestic Violence Act, 2005 before the learned Judicial Magistrate, Hooghly Sadar and learned trial Court was pleased to extend the protection to the petitioner to have right to residence in her matrimonial home as an interim measure. The said impugned order was challenged before the learned 3rd Court of Additional Sessions Judge, Hooghly who was pleased set aside the order of learned Judicial Magistrate on the ground that Section 19 of Protection of Women from Domestic Violence Act does not confer

any right upon the daughter-in-law to claim right, title and interest in the house that is in the name of her father-in-law. This finding of learned appellate Court *ex facie* is erroneous as no such prayer was ever made and liable to be set aside, which I accordingly do. Interim order passed by learned Judicial Magistrate on 24th of September, 2009 is restored.

Learned Judicial Magistrate is directed to dispose of the application under Section 12 of Protection of Women from Domestic Violence Act pending before the Court expeditiously.

Since this is a family dispute *per se* learned trial Court is requested to explore the possibility of mediation and conciliation to settle the dispute between the parties.

Thus the criminal revisional application being CRR 2164 of 2010 is disposed of.

Let a copy of the judgement along with LCR, if any, be sent down to the learned trial court forthwith.

(Siddhartha Roy Chowdhury, J.)