

29.11.2023
Serial no. 1
[G.S.D]

CRR 4051 of 2023

In the matter of : Md. Barik @ Abdul Barik
... .. Petitioner

MR. S. BHATTACHARYA
MR. D. D. BANERJEE

... FOR THE PETITIONER

Mr. Arijit Ganguly	
Ms. Debjani Sahu	... for the State
Mr. Ayan Bhattacharya	
Ms. Shaila Afrin	
Ms. Rafat Jahan	... for the o.p. no.2

The report submitted by the police authorities be kept with the record.

The report reflects that the police authorities tried their best to implement the order dated 23.11.2023. There are some disputes and differences regarding the steps of the person in possession particularly when the petitioner who claims that the nature and character of the room has been changed and also the goods which were kept over there have been removed when the door was opened in front of the police authorities.

This Court do not approve the nature of the order passed by the Id. Executive Magistrate entering into the domain of the civil court in relation to the portion of the

tenanted property wherein demarcation is required in respect of possession of each of the persons. The police authorities earlier implemented the Executive Magistrate's order but pursuant to this court's order had been to the concerned premises. However, the disputes and differences arose between both the parties.

Having regard to the same, I grant liberty to the petitioner to file an application under sub-section 5 of Section 144 of the Cr.P.C. before the Id. Executive Magistrate. The Id. Executive Magistrate will consider the report filed before the High Court which the concerned officer would forward to the Id. Executive Magistrate.

The Id. Magistrate would first assess whether the initial order so passed under sub-section 2 of Section 144 was in accordance with the provisions of the law. The Id. Magistrate will also consider whether the provisions of Section 144 of the Cr.P.C. are required to be invoked in respect of breach of peace where public at large are involved or only where the disputes and differences relate to two tenants which are private and personal in nature.

The Id. Magistrate is directed that if any application under sub-section 5 of Section 144 of Cr.P.C. is filed by the petitioner, in that case, notice be issued, written objection, if any, be filed within two weeks from the date of filing of the same and the said application under Section 144(5) Cr.P.C.

be disposed of within a period of twenty days from the date of filing of the same.

With the aforesaid observations, CRR 4051 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Report so submitted be kept with the record.

The concerned officer is present in court. His further appearance for the day is disposed with.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

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

(Tirthankar Ghosh, J.)