

21.05.2024

Sl. No.:10

Court No.30
BM

CRR 573 of 2022

Hiralal Roy & Ors.

Vs.

State of West Bengal & Anr.

Mr. Prantick Ghosh

... for the petitioners

Ms. Afreen Begum

Mr. Ankan Biswas

... for the opposite party no.2

1. The present revisional application has been preferred against a judgement dated December 16, 2021 passed by the learned Additional District & Sessions Judge, 1st Court at Barrackpore, North 24 Parganas in Criminal Appeal no.2 of 2020.

2. By the said order under revision the criminal appeal has been dismissed by the learned Session Judge and the judgement dated 31.12.2019 of the learned Judicial Magistrate, First Court, Barrackpore passed in Misc. Case No.56 of 2016 has been affirmed. It is submitted by the learned counsel for the petitioners in presence of the learned counsel for the opposite party no.2 who is also heard that the learned Magistrate has granted relief to the opposite party herein while disposing of the Misc. Case finally.

3. It is further submitted by the petitioner that he has been seriously prejudiced by the order dated 15.11.2019 passed by the learned Magistrate. The order dated 15.11.2019 is reproduced herein for convenience:-

“ Both sides are filing Hazira. O.P also files a petition on the ground stated therein.

Heard both sides learned advocate. Learned advocate for the petitioner submitted no further PWS and learned advocate for O.P submitted no OPW to be adduced.

*So, the evidence of PWS and OPWS are stands closed.
Fixed 20.12.2019 for argument and hearing of petition
dated 15.11.2019 filed by the O.P.”*

4. It is further submitted by the learned counsel for the petitioner that the learned advocate before the trial court before the learned Magistrate by making such a submission has caused prejudice to the petitioners.
5. Considering the fact that this is a proceeding under a beneficial legislation an opportunity is being granted to the petitioners herein, who are opposite parties before the learned Magistrate, with a direction that the order dated 15.11.2019 is hereby set aside in the interest of justice on payment of cost of a sum of Rs.2,000/- by the petitioners herein.
6. The cost be paid to the opposite party no.2/daughter herein.
7. The order under revision is also accordingly set aside.
8. The matter is remanded to the learned Magistrate to grant an opportunity to the petitioners/opposite party/father for adducing evidence in accordance with law in presence of the opposite party herein and the learned Magistrate shall dispose of the said Misc. Case afresh, following the guidelines of the Hon'ble Supreme Court in **Rajnesh vs. Neha (2021) 2 SCC 324** within a period of three months from the date of communication of this order.
9. All applications connected thereto stand disposed of.
10. Interim order, if any, stands vacated.
11. Let a copy of the order be sent to the learned trial court for compliance.

12. Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)