

10.01.2024

Sl.No. 53

Ct. 32

Amalranjan

CRR 649 of 2018

Shyamal Haldar and anr.

Vs.

The State of West Bengal and anr.

Nobody appears on behalf of either of the parties on call. Even on earlier occasion no one represented the petitioners, no accommodation sought for.

This case pertains to the year 2018. The nature of prayer and to avoid further delay record is taken up for the purpose of disposal on merit.

The brief facts of the case are relevant for the purpose of disposal of the case as follows.

Late Laxmikanta Haldar, father of the petitioner and opposite party no. 2 gifted his property to the petitioner no. 1 and the opposite party no. 2 in equal shares of the land total measuring 07 satak of land vide Deed No. 2160/1982 and Deed no. 2159/1982. Accordingly, they became the owners of the said land in equal shares and they are enjoying the same separately.

But suddenly the opposite party no. 2 has filed a case being MF Case 545/2018 under section 144 (2) of the Criminal Procedure Code and started disturbing the possession of the petitioners, though they have no right to enjoy over the half portion of the property.

However, without considering the case of the petitioners, the learned Executive Magistrate directed to maintain peace over the said suit land/property and also not to change the nature and character of the land till the report comes and the matter was fixed on 12.04.2018. Though the dispute is purely civil in nature. The learned Magistrate has no jurisdiction to pass such order ex party.

As such the petitioners have been filed this application challenging the said impugned order passed by the learned Executive Magistrate, Diamond Harbour, South 24 Parganas in M.F. Case 545/2018 under section 144(2) of the Criminal Procedure Code.

Upon perusal of the application together with annexures thereto and the impugned order, it appears that the order passed by the learned Executive Magistrate long ago on 8th March, 2018. Under section 144(4) of the Criminal Procedure Code no order under this section shall remain in force for more than two months from the making thereof, provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

In the light of above circumstances, the instant revisional application has become infructuous. Furthermore, the Ld. Executive Magistrate exceeds his jurisdiction to pass an order not to change the nature and character of the land in question.

Accordingly, the instant revisional application being **CRR 649 of 2018** is thus disposed of with the above observation without any order as to costs.

Interim order, if any, stands vacated.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)