

03.05.2024
Sl.No. 27
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1418 of 2018

Sumitra Halder and ors.
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 is taken up for disposal on merit considering the nature of prayer and to avoid further delay as the case pertains to the year 2018.

The instant revisional application has been filed by the petitioners under sections 401 read with section 482 of the Criminal Procedure Code, 1973 challenging the correctness legality and propriety of the impugned order dated 29.05.2018 passed by the learned Executive Magistrate, Baruipore Sub-Division in M.P. Case no. 1877 of 2018.

It is the contention of the petitioners that the deceased mother of the petitioner nos. 1 and 2 was the original recorded owner of the land situated in Mouza – Chuprijhara, L.R. Khatian No. 393, L.R. Plot no. 3093 and the same are in possession since 1966 after purchase by constructing their dwelling house. Name has already been

published in L.R. record of rights in the name of their deceased mother Kausallarani Halder and they are paying rents to the concerned authorities. When the petitioners were repairing their kitchen on the standing land, the opposite party no. 2 was trying to resist the same without any reason. He has no right, title and interest and possession over the land in question. Even knowing the said facts, the respondent no. 2 with ill-motive filed an application under section 144(2) being MP case no. 1877/2018 against the petitioners and without considering the case of the petitioners, the learned Executive Magistrate illegally and arbitrarily had passed the impugned order, as such the instant application.

The impugned order dated 29th May, 2018 passed by the learned Executive Magistrate following order as inter alia:

1. O/C, Kultali P.S. is directed to serve a copy of the plaint and the notice of show cause and appearance before court to OP/OP's. He is also directed to state whether there is any chance of breach of peace in connection with this instant case and maintain peace and to submit report and to restrain OP from disturbing the petitioner's peaceful possession.
2. Let a copy of the complaint be forwarded to the B.L. & L.R.O. Joynagar-II to make an enquiry & report by 03.07.2018 regarding, i. The status of the land (with present R.O.R. status), ii. Status of

possession of scheduled land. Next date fixed on 03.07.2018.

Having considered the application, annexures thereto as well as the impugned order passed by the learned Executive Magistrate, this court finds that the order was passed on 29.05.2018 by the learned Executive Magistrate under section 144(2) of the Cr.P.C. is valid for a period of 2 months.

Proviso under section 144(4) of the Cr.P.C. stated as follows:

“Section 144(4): 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.”

Under the above facts and circumstances, the instant revisional application has become infructuous.

Accordingly, **CRR 1418 of 2018** is, thus, disposed of without any order as to costs.

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.)