

10.01.2024
Item No.34
BR

CRR 1473 Of 2017

In the matter of : Kalipada Halder
.... petitioner

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

This case is pertains to year 2017, the nature of prayer and to avoid further delay the record is taken up for disposal on merit.

The brief facts of the instant case is relevant for the purpose of disposal of this case:

Petitioner is the owner of the land consisting of Khatian No. 532,533,651,650 and 649 being the legal heirs of Dulal Halder erstwhile owner and his name has been recorded in LR record of rights according to his share inherited from his father. But all on a sudden two notice was served upon him wherefrom it

reveals the private respondent lodged two separate objections regarding the preparation of record of rights in favour of the petitioner in respect of landed property situated under Mouza Jadavpur Dag No. 169 and Dag No. 171 and on the basis of their application two misc. case no. 21 of 2015 and misc. case no. 19 of 2015 was initiated as per provisions of Section 57 and Section 58 of the West Bengal Land Reforms Act, 1955 and the said cases are pending for disposal.

They are trying to disturb the peaceful cultivation of the petitioner and enjoying lawful usufruct of the land in question and they have been trying to enter forcibly in the land. At the same time opposite party suppressing all the aforesaid facts filed an application under section 144 (2) of the Criminal Procedure Code being MF Case No. 625 of 2017 before the learned Executive Magistrate, Diamond Harbour on 19.12.2016 and after ex parte hearing learned Magistrate was pleased to direct the Officer -in-Charge of Mathurapur P.S. to maintain peace so that no disturbance is occurred by any one till report comes.

The learned Magistrate did not consider the valid papers and document

in support of right, title and interest but illegally and erroneously passed such impugned order which is liable to be set aside. Otherwise, petitioner will suffer irreparable loss and injury.

Considering the application as well as annexures thereof this Court finds the learned Executive Magistrate directed the Officer-in-Charge of Mathurapur P.S. to cause an enquiry and report and in the mean time directed to maintain peace so that no disturbance is occurred by anyone till report comes in the area and that order was passed long ago on 20.3.2017.

In view of Section 144(4) of Cr.PC, impugned order shall not remain in force for more than two months from 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 right 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.

Furthermore, I do not find any error or perversity in the said order.

Under the above circumstances the criminal revisional application is devoid of merit and consequently CRR 1473 of 2017 is, thus, dismissed without any order as to costs. Interim order, if any, stand vacated.

Let a copy of this order be communicated to the learned Court below.

Urgent xerox certified copy of this order, if applied for, be given to the learned advocate for the parties on usual undertakings.

(Ajay Kumar Gupta , J.)