

16.01.2024  
Sl.No. 49  
Ct. 32  
Amalranjan

CRR 1566 of 2017

Sirajul Haque  
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 2017. The nature of prayer and to avoid further delay record is taken up for the purpose of disposal on merit.

The petitioner has filed this application under Section 482 of the Criminal Procedure Code , 1973 seeking quashing of the proceeding of MP case 821 of 2017 under section 144(2) of the Criminal Procedure Code pending before the learned Executive Magistrate, Barasat (Sadar), North 24 Parganas and order passed therein on 11.04.2017.

It is the contention of the petitioner that the dispute between the parties with regards to the civil dispute. In such a case, the learned Executive Magistrate has no jurisdiction to entertain the matter as there was no any act done by the petitioner which will cause breach of peace and tranquillity in the area where the property in question situated. Therefore, the order passed by learned Executive Magistrate is perverse and illegal as such the impugned order is liable to be quashed.

Upon perusal of the application together with annexures thereto and the impugned order, it appears that there is a dispute between the parties regarding property mainly the portion of common passage and there was an allegation in the application filed under section 144 of the Criminal Procedure Code that the petitioner is trying to build a boundary wall around the property and that was protested by the opposite party no. 2 herein. As such there was serious chance of breach of peace and tranquillity in the locality. Accordingly, the learned Executive Magistrate has passed an order directing the Block Land and Land Reforms Officer and O/C of Ashokenagar P.S, North 24 Parganas to keep a strict vigil on the law and order situation by the area concerned.

Therefore, I do not find any jurisdictional error or illegality in passing such order when there was an every chance to breach of peace and tranquillity in the area. Furthermore, the order passed by the learned Executive Magistrate has no force as per section 144 (4) 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, this court does not find any merit in this case.

Accordingly, the instant revisional application being **CRR 1566 of 2017** 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.)