

29.04.2024
Sl.No. 12
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1928 of 2017

Fidi Hussain
Vs.
The State of West Bengal and ors.

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 pertains to the year 2017.

The instant revisional application has been filed by the petitioner under section 482 of the Criminal Procedure Code, 1973 challenging the impugned order dated 21.12.2016 passed by the learned Additional District and Sessions Judge, Fast Track, 1st Court, Islampur, Uttar Dinajpur in connection with Criminal Revision no. 07 of 2014 whereby the learned Judge was pleased to modify the order dated 20.04.2012 passed by the learned Executive Magistrate, Islampur, in connection with MR case no. 53/2001 under section 145 of the Criminal Procedure Code, 1973 and declared the possession of the suit property in favour of the opposite parties.

This case is taken up for disposal on merit considering the nature of prayer and to avoid further delay.

The brief fact of the instant application is that initially an application under section 145 of the Criminal Procedure Code, 1973 has been filed by the petitioner herein before the learned court below and the same was registered as MR case no. 53/2001.

In the said case, the present opposite party nos. 2-5 entered their appearance and filed a written objection. Finally, after considering the case of both the parties, vide order dated 20.04.2012 the learned Court pleased to hold that the petitioner is in possession of the said land and was entitled to retain such possession and the private opposite parties were forbidden for causing disturbance in the possession of the petitioner's land and the Officer-in-Charge, Goalpukur was directed to maintain law and order.

The said impugned order has been challenged by the opposite parties by way of filing a revisional application being Criminal Revision no. 07/2014. Thereby the learned Additional District and Sessions Judge, Fast Track, 1st Court, Islampur, Uttar Dinajpur has set aside the said impugned order without considering the actual case of the petitioner.

The learned Additional Judge also did not consider that when the learned court below called for a report from the police as well as B.L&L.R.O, they have submitted that there was no whisper of the fact 'Anumoti Dakhaldar' in favour of the petitioner. It was also observed by the learned court below that practically those two reports were submitted by

the police and B.L&L.R.O concealing the actual picture prevailed at the time of dispute.

Despite of the said facts and without ascertaining the actual facts, the learned Additional District and Sessions Judge, Islampur, set aside the order passed by the Executive Magistrate which is absolutely not tenable in law. The petitioner had abled to prove his possession by way of filing a deed being Deed no. 12174 for 1991 by which the present petitioner had purchased the land and at the time of purchase there was standing crops from the date of purchase. He was in possession and enjoying the same peacefully. Without considering the said facts, the learned Additional District and Sessions Judge, Islampur, has set aside the said order which apparently committed error. Thus, that is required to be set aside.

The petitioner's case has merit and further contention and documents supplied by the petitioner is more authentic and better position than opposite parties. Accordingly, the order passed by the learned Additional District and Sessions Judge, Fast Track, 1st Court, Islampur, Uttar Dinajpur on 21.12.2016 in Criminal Revision no. 7/2014 is thus set aside.

The order passed by the learned Executive Magistrate is affirmed.

Under the above circumstances, **CRR 1928 of 2017** is, thus, allowed without any order as to costs.

Let the order be communicated to the Ld. Court below for information.

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.)