

14.05.2024

Sl. No.: 10

Court No.30
BM

CRR 4642 of 2022

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IA No.: CRAN 3 of 2023

Prashant Bothra

Vs.

The State of West Bengal & Anr.

Mr. Ayan Bhattacharjee
Mr. Aditya Ratan Tiwary
Mr. Suman Majumder

... for the petitioner

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee

... for the opposite party no.2

Mr. Sandipan Ganguly
Mrs. Priyanka Sarkar

... for the Company/Sankalp Trade Link Pvt. Ltd.

1. Affidavit of service showing due service is filed.
2. **IA No.: CRAN 3 of 2023** has been filed for extension of interim order. At the time of extension, as all the parties are present, the criminal revision is taken up for hearing.
3. At the time of hearing, Mr. Sandipan Ganguly, learned senior counsel has sought to be impleaded as a (necessary) party on behalf of the Company namely Sankalp Trade Link Pvt. Ltd.
4. In view of the submission made by the learned counsel for the petitioner that he is an ex-Director of the Company and the opposite party no.2 herein is occupying the Company's flat forcefully and is now being protected by an ex-parte order of the learned Magistrate and there being no specific

averment in respect of the Company in the present case, the company at this stage, though heard, is not permitted to be added as a party but the Company is at liberty to approach the trial court and pray for necessary relief which the learned Magistrate shall consider in accordance with law.

5. On hearing the learned counsel for the parties herein and the fact that admittedly the order of the learned Magistrate is an ex-parte order, the matter is remanded to the Court of the learned Magistrate with a direction to hear the matter afresh by hearing all the parties herein including the Company, on following guidelines of the Hon'ble Apex Court in ***Rajnesh vs. Neha & Anr. (2021) 2 SCC 324*** and **decide the issue on the point of the opposite party no.2/wife's right of residence, under the Act.**
6. The ex-parte order under revision in the present case shall remain in force till the decision on the said issue, by the trial court on hearing all sides in accordance with law and then proceed to dispose of the Misc. case finally.
7. The learned Magistrate shall decide the issue afresh without being influenced by the observations of this court.
8. **The revisional application being CRR 4642 of 2022 is accordingly disposed of.**
9. All applications connected thereto stand disposed of.
10. Interim order, if any, stands vacated.
11. Let a copy of the order be sent to the learned trial Court for compliance.

- 12.** Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)