

HEADING OF JUDGEMENT OF APPELLATE COURT
COURT OF SESSIONS, APPELLATE JURISDICTION

Present:- Smt. Ratna Roy
(J.O. Code: WB00914)
Additional Sessions Judge,
1st Court, Serampore, Hooghly.

CRIMINAL MOTION NO. 39 of 2023
(C.N.R. No. WBHG05-000431-2023)

Afsar Ali Molla.....Petitioner/ Revisionist

-Versus-

Salima Begum & State of West Bengal.....Opposite Parties

For the petitioner: - Sri Anirban Naskar, Ld. Advocate.
For the O.P. No. 1: - None.
For the State: - Sri Ashok Sen, Ld. P.P., Serampore.

Date of delivery of Judgment: Wednesday, the 01st day of July, 2026.

J U D G E M E N T

This is a criminal motion under sections 397/399 of Cr.P.C preferred against the order dated 24.02.2023 passed by the Ld. Executive Magistrate at Serampore in connection with case no:- M -170 of 2023 under section 144(2) of Cr.P.C.

The petitioners case, in brief, is that the Opposite Party No. 1 filed an application under section 144(2) of the Cr.P.C, which was registered as M.P Case no. 170/2023 on 24.02.2023 and has obtained the impugned order from Ld. Executive Magistrate at Serampore by suppressing material fact. The impugned order is, therefore, illegal, improper and incorrect and is liable to be set aside.

The case of Opposite Party No. 2 State is that the impugned order has lost its force due to efflux of time and as such, this motion is required to be

disposed of.

Being aggrieved by and dissatisfied with the impugned order made by the Ld. Magistrate, the petitioner has instituted the instant revision on the grounds, inter-alia, that the Ld. Magistrate has erred both in law and fact; that the Ld. Magistrate before passing the impugned order ought to have given an opportunity to the petitioner; that the Ld. Magistrate ought not to have passed the impugned order ex-parte; that the Ld. Magistrate ought to have considered that neither of the co-sharers can be restrained under the schedule property; that the Ld. Magistrate ought to have enquired after going through the petition when the Opposite Party No. 1 stated that the schedule property is a joint property; that the Ld. Magistrate ought not have believed the mere statement of the Opposite Party no. 1 and passed the impugned order on ex-parte.

Point for determination:-

(1) Is the impugned order sustainable in law?

Decision with reasons:-

Point No.1:-

The only point is taken up for consideration.

On careful perusal of impugned order it transpires that the Ld. Magistrate made an order on 24.02.2023 directing the B.L.& L.R.O, Chanditala and O.C, Chanditala P.S. to submit report and directing the O.C., Chanditala P.S to restrain opposite parties if it is found illegal according to his enquiry. It is apparent from the impugned order that the said order is an order under Section 144(2) of Cr.P.C. In view of the provision of Section 144(4) of Cr.P.C, the order made under Section 144(2) of Cr.P.C stands terminated on expiry of a period of sixty days from the date of the order. Since the period of sixty days has expired, the impugned order has already lost its force and as such, the same has become infructuous. Therefore, the instant motion is liable to

be dismissed.

The only point is decided accordingly.

Hence, it is

Ordered,

that the instant motion be and the same is dismissed on contest since the impugned order stands terminated. Interim order of stay, if any, stands vacated.

Let a copy of this judgment be sent to the Ld. Executive Magistrate at Serampore for information.

Dictated & corrected by me.

SD/-

(Ratna Roy)
Additional Sessions Judge,
1st Court, Serampore.

SD/-

(Ratna Roy)
Additional Sessions Judge,
1st Court, Serampore.