

Order No. 09

dt. 06.5.26

Today is fixed for passing order.

The record is now taken up for passing order on merits in the instant criminal motion.

The Revisionist of the instant motion has preferred herein the instant Criminal Motion challenging the Order dated 16.7.2025 passed by the learned Executive Magistrate (hereinafter referred to as E.M.) Serampore in Misc. Case No. 592 of 2025.

The genesis of the matter culminating in the order impugned is as follows :

One misc. case being No. 592/2025 was registered on a petition filed by the petitioner therein namely Swapan Pan who is the O.P.1 of this motion on the same day i.e. on 16.7.25 under section 163 (2) of The B.N.S.S. (hereinafter referred to as the Act) against the opposite party therein namely Goutam Ghosh, who is the present revisionist, before the court of Ld. E.M, Serampore (hereinafter referred to as trial court) in which he alleged inter alia the following contentions :

The suit property being 2 decimals of land out of 11 decimals being Dag No. 526 in Mouza Jangipara recorded as Dokan in Jangipara Gram Panchayat originally belonged to Khamarani Pan who is the wife of late Paritosh Pan after which his legal heirs i.e. four sons and one daughter inherited and jointly possessed the said property. Subsequently the O.P. Goutam Ghosh forcefully started making construction upon the suit property although the said property was a joint unpartitioned property. When the petitioner protested upon such illegal activity of the O.P. upon their joint property, the O.P. threatened to murder the petitioner and other co-sharers. The petitioner Swapan Pan then filed the instant case before the trial court with the consent of the other co-sharers against the O.P. Goutam Ghosh on 16.7.2025.

After hearing the petitioner, the ld trial court by an ex parte order on the same day i.e. on 16.7.2025, was pleased to direct B.L&L.R.O. Jangipara and O.C. Jangipara P.S. to submit report in this regard within 27.8.2025 and further directed the said O.C. to keep sharp vigil at the locale and to restrain the O.P. in case of any possibility of breach of peace and also directed both the parties to maintain peace and tranquility, fixing the next hearing date on 15.9.2025.

Being aggrieved by and dissatisfied with the aforesaid order, the O.P. as revisionist has filed the present criminal motion.

As the revisionist in the present motion did not appear before this court and further did not file his show cause reply, the instant motion is hereby decided on merits.

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Criminal Motion 77 of 2025

J.O. Code : WB01302

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It appears that the challenge with regard to the impugned order is with regard to the order passed by the Id trial court under section 163(2) of the Cr.P.C. However, section 163(4) of the same provision says “*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”.

On perusal of the materials in the TCR, it is evident that the said impugned order has been made on 16.7.2025 which means that it is valid till 15.9.2025 as there is nothing further which suggests that the State Government by notification has directed that the said order shall remain in force for any further period not exceeding six months from 15.9.2025. In fact, the further order dated 15.9.2025 made by the Id trial court clearly shows that the relevant Misc Case has itself been disposed of as the statutory period of two months has elapsed since the passing of the impugned order. **In such a scenario, the challenge posed by the revisionist in this criminal motion stands infructuous as the impugned order in itself has expired.** Hence the instant Criminal Revision No. 77 of 2025 is dismissed without contest.

Let a copy of this order be sent to the Ld. Executive Magistrate, Serampore along with the TCR.

Dictated & corrected by me

Sd/-

**Additional Sessions Judge, 2nd
Court, Serampore.**

Sd/-

**Additional Sessions Judge, 2nd
Court, Serampore.**