

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 930 of 2010

Judgment On:16-04-2010.

Sukumar Chakraborty
versus
The State of West Bengal & Anr

POINTS:

LAWFUL CONSTRUCTION-Petitioner constructing a building on the strength of a proper and valid sanction plan- Executive Magistrate, has called for a report from the police and directed the police to see that no illegal activities are taken place and no illegal construction is made-Whether by such order the petitioner has been restrained from making construction lawfully- Code of Criminal Procedure, 1973 S.144 (2)

FACTS:

Subject matter of challenge in this criminal revision is an order passed in connection with a proceeding under Section 144 (2) of the Code of Criminal Procedure. On the strength of a proper and valid sanction plan, the petitioner has been constructing a building, but in view of the impugned order, he has now been restrained from making any construction.

HELD:

The Learned Executive Magistrate has called for a report from the police and also directed the police to see that no illegal activities take place and no illegal construction is made. In the opinion of the Court, by making such order the petitioner has in no way been restrained from making construction lawfully. The order impugned does not deserve any interference and this criminal revision accordingly stands dismissed.

Paras-4&5

For Petitioner : Ms. Sanghita Chatterjee

THE COURT:

1. Heard the Learned Counsel appearing on behalf of the petitioner. Perused the impugned order and the other materials on record.

2. The subject matter of challenge in this criminal revision is an order passed in connection with a proceeding under Section 144 (2) of the Code of Criminal Procedure. The order impugned is quoted below;

“Seen the prayer of the petition and Ld. Advocate u/s. 144 (2) Cr.P.C. Perused and considered. I.C. Belghoria P.S. is directed to cause an enquiry and to submit report by the next fixed date. I.C. Belghoria P.S. is also directed to restrain all sorts of & illegal activity and also an illegal attempt to undertake unlawful construction over the issue by any person & maintain peace over the area. Chairman, Kamarhati Municipality will also cause an enquiry & to submit report by the next fixed date. Inform all concerned.

To date 26.3.10.”

3. It is submitted by the Learned Counsel of the petitioner that on the strength of a proper and valid sanction plan, the petitioner has been constructing a building, but in view of the impugned order, he has now been restrained from making any construction.

4. It appears from the impugned order that the Learned Executive Magistrate, Barrackpore, has called for a report from the police and also directed the police to see that no illegal activities are taken place and no illegal construction is made. In my opinion, by making such order the petitioner has no way been restrained from making construction lawfully.

5. The order impugned does not deserve any interference and this criminal revision accordingly stands dismissed. Interim order, if any, stands vacated.

6. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)