

ORDER SHEET

(Rule 129 of the Records Manual 1917)

Order Sheet, dated from

to

District Howrah.


M. P. No. 295

of 2022

Chirantan Mukherjee
vs
Bansubek Ghoshal

Nature of the case vs 144(2) Crpc.

Govt. Of West Bengal
Office of the Ld. Executive Magistrate
2nd Court, Howrah

Serial number and date of Order	Order and signature of Officer	Note of action taken on Order
01 07/3/22	<p>Petition filed by Chirantan Mukherjee, S/o Lt. Anutosh Mukherjee residing at 56, Dingsai Para Road P.O. & P.S. Bally, Howrah.</p> <p>Prayer for relief vs 144(2) Crpc. Advocate present behalf of Petitioner and filed the petition vs 144(2) Crpc. Perused the petition and considered.</p> <p>O/c Bally P.S. is directed to enquire into the petition and submit Police report at the earliest after serve notice to the both side.</p> <p>To 29/8/22 for hearing as on PR.</p>	<p>29/8/22</p>  <p>TRUE COPY B.C. To Executive Magistrate 2nd Court Howrah, Sd/- 07/3/22</p> <p>Executive Magistrate 2nd Court, Howrah</p>

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(Rule 129 of the Records Manual 1917)

Chirantan Mukherjee

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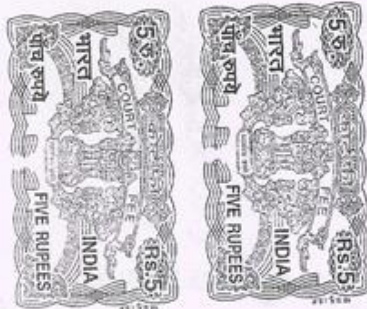
District Howrah.

M. P. No. 295

of 2022 Basubab Ghoshal

Nature of the case *vs 144(2) crpc.*Govt. Of West Bengal
Office of the Ld. Executive Magistrate
2nd. Court. Howrah

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IN THE 2ND COURT OF THE LD. EXECUTIVE MAGISTRATE, HOWRAH.

HOWRAH.

MISC. PETITION NO. 295 OF 2022.

SRI CHIRANTAN MUKHERJEE, son of Late Anutosh Mukherjee,
residing at 56, Dingsai Para Road, P.O. and P.S. Bally, District—Howrah,
Pin—711201.Petitioner.

//Versus//

1] **SRI BASUDEB GHOSHAL**, father's name not known to the petitioner,
residing at 57, Dingsai Para Road, P.O. and P.S. Bally, District—Howrah.

2] **SRI DEBASHIS SADHUKHAN**, father's name not known to the
petitioner, of 430/2, G.T. Road, P.O. and P.S. Bally, District—Howrah and
also working for gain as Developer at 57, Dingsai Para Road, P.O. and P.S.
Bally, District—Howrah.

AND many others of the same locality whose names are not known to
the petitioner, but can be identified at the locale during Police- enquiry.

.....Opposite Parties.

In the matter of :--

An application on behalf of the petitioner above-named under Section 144(2) of the Code Criminal Procedure praying for appropriate legal action against the opposite parties along with their respective men, agents, relations and associates so as to prevent the serious breach of peace arisen due to the wilful disturbance and obstruction committed by the opposite parties within the North-Eastern side of the petitioner's residential house and also due to raising of illegal construction at the North-Eastern outskirt of Premises No. 56, Dingsai Para Road, P.O. and P.S. Bally, District—Howrah.

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The petitioner above-named begs to state as follows :-

1. That the petitioner is one of the joint absolute owners and occupiers of more or less 4 Cottah 8 Chittaks of Bastu land together with one two-storeyed residential Building comprised in Municipal Premises No. 56, Dingsai Para Road, P.O. and P.S. Bally, District—Howrah. It is submitted by the petitioner that he has acquired undivided share of the aforesaid property by way of inheritance and he along with his family members have been using and enjoying the said premises as permanent residential house since the time of his predecessor-in-interest.
2. That to the Eastern and Northern limit of the petitioner's house situates premises No. 57, Dingsai Para Road of which the O.P. No. 1 is the owner and as a matter of fact the original owners of the said premises had/have cordial and amicable relationship with them petitioner's family as friendly neighbours for decades.
3. That about a year back the said O.P. No. 1 had started construction work within his house by means of demolition of the old structure and it has appeared that for the purpose of raising extensive construction the O.P. No. 1 engaged O.P. No. 2 who is known as a popular Developer within the locality of the petitioner and he appears to have undergone several other constructions by promoting different old and dilapidated houses. When the O.P. No. 2 in collaboration with the O.P. No. 1 started to raise construction of the new Building, surprisingly the same has been continued by curtaining away the same from the view of the petitioner and his family members by using big plastic cover. Thus the petitioner has been denied vision and is kept in complete darkness regarding not only the progress but also the nature and character of the said construction of structure. Being a bit surprised when the

Chirantan
mukherjee



petitioner enquired about such coverage, he has been told that for protection of the neighbours including the petitioner from air and dust pollution, the said coverage is being used.

4. That some months later, i.e., in or about November, 2021, the petitioner became very much shocked and surprised to notice that the demarcating Boundary wall in between premises No. 56, Dingsai Para Road and 57, Dingsai Para Road was totally demolished by the O.P. No. 2 and his men and agents. The petitioner immediately rushed to the O.P. No. 1 so as to remind him that the aforesaid demarcating Boundary wall was standing to indicate clear and specific demarcation between the two premises for more than last 50 years. At that time both of O.P. No. 1 and O.P. No. 2 told that for smooth progress of the construction the said Boundary wall was demolished for the time being and they assured the petitioner that within a very short period the said demarcating Boundary wall would be rebuilt and as such the petitioner patiently waited for last more than two months relying upon the assurance of his next-door neighbour, i.e., the O.P. No. 1.
5. That in the 2ND week of February, 2022, it is noticed by the petitioner that the O.P.s including their men, agents and associates have surreptitiously started to merge portion of the North-Eastern part of the petitioner's premises with the premises of the O.P. No. 1 in the disguise of making new construction. Then it has been crystal clear that the said O.P.s in order to fulfil their illegal and wrongful motive of capturing portion of the property of the petitioner, are very much bent upon to commit forcible intrusion and interference and by encroaching a portion of petition's landed property on the North-Eastern side, the said O.P.s are determined to oust the petitioner from their exclusively owned ancestral property. When the petitioner approached the O.P.s by raising



Chirantan
Mukherjee

Q. [Signature]

objection, the said O.P.s and their men, agents and associates threatened your petitioner with unwarranted disturbance along with brutal physical torture. They also boldly declared that they would continue with their illegal and criminal activities to capture the portion of property of the petitioner by force and they have no intention to rebuild the demarcating Boundary wall. Finding no other alternative to protect the lawful right, title and interest of the petitioner and his co-owner, the petitioner immediately went to the Bally P.S. and on 13/02/2022 lodged a written complaint asking the Officer-in-Charge of Bally P.S. to take necessary protective measure.

6. That the since the 2ND week of February, 2022, the O.P.s somehow stopped their construction work for the time being, but the arrangement for committing encroachment of the petitioner's land have remained as it is . But all on a sudden on and from 04/03/2022, the O.P.s engaged large No. of masons and labourers in order to complete the construction work according to their instruction in full swing. For the purpose of raising illegal construction, the O.P.s and their men, agents and associates have boldly intruded into the land of the petitioner by damaging the Northern-Eastern part of the same. The petitioner again rushed to the Bally P.S. and requested the Police Authorities to provide necessary protective action. But the local P.S. has suddenly shown passive attitude and ultimately advised your petitioner to bring an appropriate Order from this Ld. Court for immediate safety.
7. That it is now clear that the opposite parties and their men, agents and associates are very dangerous, desperate and violent by nature and they can do anything at any point of time in order to fulfil their illegal and mala fide motive to dispossess the petitioner and his co-owners from their exclusively owned ancestral

Chirantan
mukherjee

Dr. B. K. Das
Adv.



property. At present the petitioner has realised that at the direct instigation of both the O.P.s and their men, agents and associates, there is every chance of serious breach of peace at the locale, at the North-Eastern portion of the premises of the petitioner and even the loss of lives and property is anticipated. Since the aforesaid illegal and criminal activities of the O.P.s have been very much aggravated, an unbearable situation has been created within the premises of the petitioner.

8. Unless the O.P.s along with their men, agents and associates be at once restrained by an appropriate Order from this Ld. Court from committing aforesaid criminal activities by making illegal intrusion and disturbance to the peaceful user and enjoyment of the petitioner with the help of forcible and unauthorised construction at the exclusively owned premises of the petitioner by demolishing the Boundary walls, the legal right, title, interest and possession of the petitioner and his family members would be seriously affected, thereby causing grave and irreparable loss and injury. Hence, immediate Police protection by Order of this Ld. Court is highly warranted under emergent necessity.

9. That this petition is made bona fide and for ends of justice.

In the circumstances, it is humbly prayed by the petitioner that Your Honour may graciously be pleased to pass an appropriate Order directing the Inspector in Charge of Bally P.S. to take prompt and necessary action thereby restraining both the O.P.s and their men, agents and associates from unlawfully intruding and assembling at the North-Eastern portion of the exclusively owned premises of the petitioner,

Chirantan
Mukherjee


Chirantan
Mukherjee

being situated at 56, Dingsai Para Road, within P.S. Bally, in the District of Howrah and also from creating any kind of obstruction and interference in the peaceful user, enjoyment and possession of your petitioner and his family members and co-owners in respect of their exclusively owned property and also from raising any kind of forcible and illegal construction of structure over the petitioner's property and be further pleased to draw up a proceeding under Section 144(2) of the Code of Criminal Procedure against both the O.P.s along ^{after calling for a Report from the P.S.?} with their men, agents and associates, and if necessary, to arrange for sufficient police-posting at the locale, i.e., at the landed property of the petitioner being situated at 56, Dingsai Para Road, P.O. and P.S. Bally, District—Howrah, so as to ensure immediate protection of the lives and property of the petitioner and his family members and co-sharers and also pass such other appropriate Order/Orders as Your Honour may deem fit and proper.

And Your petitioner as in duty bound shall ever pray.

Dated :-- 07/03/2022.