

(1921) 07 CAL CK 0047
In the Calcutta High Court

Nasiran Bibi and Another

APPELLANT

Vs

Salim Akanda and Others and Jaffar Ali Sarkar and Others

RESPONDENT

Date of Decision : 18-07-1921

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 144
Specific Relief Act, 1877 — Section 9

Citation : 64 Ind. Cas. 572

Hon'ble Judges : William Teunon, J

Bench : Single Bench

Judgement

William Teunon, J.—These two Rules arise out of two suits brought under the provisions of Section 9 of the Specific Belief Act. It has been found by the Court below that the plaintiffs were in possession of the lands in question within six months before the institution of the suit and accordingly a decree was made in their favour. The question that is raised in the present Rules and that was raised in the Court below is, what effect is to be attributed to an order made by a Magistrate u/s 144, Criminal Procedure Code. By an order made under that section by the Sub-Divisional Officer having jurisdiction over the area in question, the Sub-Divisional Officer directed the plaintiffs to abstain from entering upon the lands now in question for the period of two months next after the date of the said order, the said date being the 23rd March 1920. The dispossession alleged by the plaintiffs was on some date between the 23rd March and the date on which the suit was filed, the 25th May 1920. It is contended that it should have been held that the plaintiffs were dispossessed not by any act of the defendant but by the Sub-Divisional Officer's order made under the provisions of Section 144, Criminal Procedure Code. But I am unable to take this view of the effect of an order made under the provisions of that section. Such an order has not the effect of disturbing either title or possession, though it may prevent and does prevent the exercise of the rights which a person in possession would otherwise be entitled to exercise during the continuance of the said order.

2. These Rules are discharged with costs, one gold mohur in each case.