

**Court No. - 53**

**Case :-** APPLICATION U/S 483 No. - 1460 of 2023

**Applicant :-** Madan Kumar And 8 Others

**Opposite Party :-** State Of U.P. And 3 Others

**Counsel for Applicant :-** Adya Prasad Tewari,Km. Khushi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Syed Aftab Husain Rizvi,J.**

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

This Criminal Misc. Application under Section 483 Cr.P.C. has been filed with a prayer to direct the Sub-Divisional Magistrate, Sadar, District- Mahrajganj to decide objections dated 18.09.2023 moved by the applicants against the report dated 02.09.2023, submitted by the Station House Officer, P.S. Kotwali, District- Mahrajganj with regard to change of receiver by appointing one Vinod Yadav son of Paltu Yadav in Case No.5201805470103579 State Vs. Prateek Baranwal and another first party and Madan Kumar and others second party under Section 145 Cr.P.C. with regard to land in question situated at village Kandh, P.S. Kotwali District- Mahrajganj by passing reasoned and speaking order as early as possible and after affording opportunity of hearing to the parties.

The learned counsel for the applicants submitted that proceeding under Section 145 Cr.P.C. was initiated despite pendency of civil suit, the injunction order and decision in the case under Section 229-B of U.P.Z.A.L.R. Act. Preliminary order dated 12.12.2017 was passed by S.D.M. under Section 145(1) Cr.P.C. Objections were invited. Meanwhile, the order dated 26.04.2018 was passed under Section 146(1) Cr.P.C and receiver was appointed. The applicants filed Criminal Misc. Application No.16696 of 2018 to quash aforesaid proceedings and this Court after hearing both the parties disposed of the application with certain directions. Certified copy of the order dated 23.05.2018 was filed before the concerned Court.

Civil Misc. Contempt Application No.5580 of 2018 was also filed for disobedience of order dated 23.05.2018, which was disposed of on 22.11.2018 with liberty to the applicants to make an appropriate expedite application. Instead, concluding the proceedings under Section 145 Cr.P.C., the opposite party fixed the case for evidence of the first party. Then the applicants filed second Contempt Application (Civil) No.1645 of 2019 in which interim order was passed on 26.03.2019. Upon receipt of the order dated 26.03.2019, the opposite party no.2 vide order dated 03.05.2019 dropped the proceedings under Section 145 Cr.P.C but no order was passed with regard to attachment of property, which was obligatory on part of the SDM, as the second party has lost their suit under Section 229B U.P.Z.A. & L.R. Act as well as appeals. The applicants moved an application before the Sub-Divisional Magistrate on 10.05.2019 to release the property attached, but it was not processed and the Sub-Divisional Magistrate was sitting mum over the matter despite dismissal of the suit and appeal. Applicants moved an application under Section 482 No.22689 of 2019, which was finally disposed of vide order dated 17.06.2019. The copy of the order was served upon the Sub-Divisional Magistrate through application dated 24.06.2019. The learned Magistrate declined to decide the release application vide order dated 22.07.2019. The applicants preferred Criminal Revision No.3128 of 2019 challenging the order dated 22.07.2019 which is pending. Meanwhile, private parties on 27.07.2022 and 03.08.2023 moved an application challenging the appointment of receiver and for appointing independent new receiver before the Sub-Divisional Magistrate who directed the Station House Officer to appoint fresh independent receiver. The SHO vide report dated 02.09.2023 intimated the SDM with regard to appointment of independent receiver. SHO appointed Vinod Yadav as receiver in the matter whereas Vinod Yadav was accused alongwith the private opposite parties and three F.I.R. lodged by the applicant no.4 details of which are given in the petition, so he is not impartial. The applicants filed objections on 18.09.2023. The Sub-Divisional Magistrate is sitting mum over the matter and has not taken any decision even after dropping the proceedings under Section 145 Cr.P.C. and the title order is in favour of the

applicants. The objections dated 18.09.2023 filed by the applicants, is still engaging the attention of Sub-Divisional Magistrate and the same has not been brought to its logical end.

Considering the facts and circumstances of the case, without issuing notice to the private opposite parties and without expressing any opinion on the merits of the case, this application under Section 483 Cr.P.C. is finally **disposed of** with a direction to the Sub Divisional Magistrate, Tehsil- Sadar to decide the objections dated 18.09.2023 moved by the applicants against the report dated 02.09.2023 of SHO, P.S.- Kotwali, District- Mahrajganj by a speaking and reasoned order after affording opportunity of hearing to the parties as expeditiously as possible preferably within a period of two months from the date of production of certified copy of this order, if there is no legal impediment.

**Order Date :- 30.11.2023**

SP/-