

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRMC No.190/2019

Reserved on: 30.03.2026
Pronounced on: 08.04.2026
Uploaded on:-08.04.2026.

*Whether the operative part or
full judgment is pronounced: Yes*

Chanchal Singh
S/O Sh. Bajar Singh,
R/O Lower Barnai,
Tehsil & District Jammu
through his son Ranjeet Singh

.....Petitioner

Through :- Mr. Sunil Sethi, Sr. Adv. with
Mr. Ankesh Chandel, Adv.

V/S

Hans Raj
S/O Mann Singh
R/O Lower Barnai,
Tehsil & District Jammu.

.....Respondent(s)

Through :- Mr. G S Thakur, Adv.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. Petitioner, invoking the inherent jurisdiction of this court under Sections 561-A of J&K CrPC (akin to Sections 482 of CrPC and 528 of BNSS) seeks quashing of order dated 28.01.2019, passed by the Court of Id. 1st Additional Sessions Judge, Jammu (hereinafter called 'Revisional Court') in Criminal Revision No.146 titled 'Hans Raj V. Chanchal Singh' whereby the Revision was allowed and the order dated 11.10.2018 passed by the learned Additional District Magistrate (ADM), Jammu on an application under Section 145 CrPC initiated by the respondent – Hans Raj, had been set-aside, allegedly being totally illegal and contrary to the settled position of law.

2. The impugned order has been challenged and assailed on the grounds, that the same was passed against law and facts of the case; that the petitioner,

being recorded owner of the land in question and the respondent and his sons being alien to the land in question having no concern, whatsoever, had no occasion to file the petition under Section 145 CrPC and the learned ADM Jammu had rightly withdrawn and vacated *ex parte* order of attachment dated 06.01.2016 passed in haste without evaluating the circumstances for breach of peace, which warranted the attachment of the land in question; that the revisional court had not appreciated this factual aspect of the matter and committed a serious illegality in again setting-aside the order dated 11.10.2018 and remanding the case back, when already two rounds of same proceedings were over; that the ADM Jammu had passed the order dated 11.10.2018, after proper appreciation of the evidence led by the parties, hearing the arguments advanced by them before him rightly withdrawn the preliminary order dated 06.01.2016 and, as such, order passed by the ADM Jammu, set aside by the revisional court, was perfectly legal and valid order, which needed no interference in the revision petition filed by the respondents; that the revisional court had set aside the order passed by the ADM Jammu on 11.10.2018, on the ground that this order was announced on 04.10.2018 but the same was passed on 11.10.2018 on a wrong notion, as the same was announced on 04.10.2018 and was forwarded on 11.10.2018.

3. Learned Sr. counsel appearing for the petitioner has vehemently argued that the impugned order passed by the revisional court is not sustainable in law, in view of the fact that the Id. Revisional court had made a specific observation that the order was passed on 04.10.2018 but was announced on 11.10.2018, whereas the fact that the matter is that the order was passed on 04.10.2018 and its copies were endorsed to the SHO P/S Domana on 11.10.2018 for compliance and necessary action; and the revisional court has taken a wrong view of it.

4. He also argued that the learned ADM Jammu had revoked the earlier order, whereby attachment of the land had been made on the basis of his enquiry that there was no threat to breach of peace, as is required to be considered under Section 145 CrPC before withdrawing such an order. The learned Sr. counsel, further, argued that during the pendency of this petition, a civil appeal was decided against an injunction order qua the parties, regarding the subject land passed by the court of Principal District Judge Jammu in a Civil Appeal No.139/2019 titled 'Hans Raj & Ors. V. Chanchal Singh' decided on 29.06.2024 against the order dated 23.09.2019 passed in civil suit 'Chanchal Singh v. Hans Raj & Ors.' by virtue of which interim application filed by the respondent Chanchal Singh was allowed and the order dated 13.10.2018 had been made absolute, wherein it has been held that once the land in Khasra Nos. 35 and 36 is stated to have been purchased by predecessor-in-interest of the respondent coupled with proceedings under Section 145 CrPC initiated by the appellant having failed the possession, if any, taken from the respondent would be deemed to have been given back, which is apparent from the revenue record, in which entries were made after ADM's order dated 04.10.2018. In this background, the respondent Chanchal Singh had been able to satisfy the trial court that he was holding possession of land and the case projected by the appellants that there is exchange of land appears to be unsubstantiated and the appellate court came to the conclusion that the discretionary exercise by the trial court was neither perverse nor there was any material to warrant a view that it had resulted into failure of justice.

5. He has also drawn the attention of this court to an order dated 17.09.2022 passed by SDM Jammu North on a petition for correction of Khasra Girdwari with regard to land in question moved by the legal heirs of respondent- Hans Raj against petitioner- Chanchal Singh was rejected having been found to

be baseless and mischievous. The learned Sr. counsel in the aforesaid background projected by him submits that the first order passed by the learned ADM Jammu on 06.01.2016 directing the attachment of the land and handed over the same on *superdari* of SHO concerned was revoked by the second order dated 11.10.2018, particularly, in the face of the fact that the trial court as well as appellate court in the injunction suit/appeal had decided in favour of the petitioner, as such, no further proceedings are required under Section 145 CrPC and prayed that the impugned order be set aside.

6. The learned counsel appearing for the respondent, ex adverso, argued that there is a prescribed procedure to hold proceedings for setting aside the petition moved under Section 145 CrPC, which requires that the matter has to be decided finally after recording of evidence and that the learned ADM Jammu, though closed the proceedings under Section 145 CrPC, but had not ordered specifically with regard to the possession, which had been ordered by the initial order to be attached on *superdari* of the SHO concerned. He also submits that the civil suit had been filed by some other persons and no reliance can be placed on those orders passed by the trial court or the appellate court having any bearing on the Section 145 proceedings. He specifically refers to the order passed by the ADM Jammu, which has been set-aside by the revisional court that no evidence has been discussed, though the petitioner had filed evidence in the shape of his affidavit as well as his witnesses.

7. He has further argued that the intervening factors like passing of the orders in civil injunction suit or appeal arising out of that shall have no bearing on the proceedings to be conducted by the learned ADM Jammu including the evidence to be led by the parties before reaching to some logical conclusion as to whether the attachment of property was required or not. Submitting that the revisional court has passed the order perfectly in consonance with law and does

not call for interference by this court invoking inherent jurisdiction, he prayed that the petition be dismissed upholding the impugned order passed by the revisional court.

8. As per the facts emerging from the pleadings and the record, one Hans Raj filed the petition under Section 145 CrPC alleging that he is in cultivating possession of land measuring 1 Kanal 13 Marlas comprising of Survey No. 35 and land measuring 4 Kanal 2 Marlas comprising of Survey No. 36 situated at Barnai, Tehsil and District Jammu from the time immemorial and that Chanchal Singh petitioner herein, in connivance with revenue agency, had manoeuvred his possession in cultivation column of Khasra Girdwari and under the garb of said entry, he has been trying to forcibly take possession of the suit land and that a criminal case was also registered against him and his sons alleging that these acts have resulted in breach of peace, which had adversely affected the public tranquility at large.

9. On 16.07.2015, the ADM Jammu directed the parties to maintain status quo on spot with regard to the land in question and vide order dated 06.01.2016, he passed the order of attachment of the land, however, vide order dated 03.05.2016 withdraw the same and the said order was challenged before the court of Id. Additional Session Judge, Jammu who was pleased to set-aside the order vide judgment dated 31.01.2017; that the order passed by the ADM Jammu with regard to conducting the demarcation of the property was challenged before this court and after disposal of the petition by this court, the ADM Jammu passed the order in October 2018, which became the subject matter of criminal revision before the revisional court.

10. On a perusal of the impugned order passed by the Revisional Court after hearing the parties, it appears that the Revisional Court holding that the impugned order had been passed in a mechanical and casual manner, without

specifying the grounds justifying withdrawal of the earlier order; that the learned ADM Jammu had not considered the evidence produced by the petitioner in the shape of affidavits and thus, the order passed by the learned ADM was set aside and the matter was remanded back for recording fresh finding and this is how the order passed by the revisional court setting aside the order passed by the learned ADM Jammu and remanding for fresh findings has been assailed before this court.

11. Having heard the rival submissions and the facts as noted hereinabove of the case, it has been found that the Id. ADM Jammu in the order passed on 04.10.2018, which became the subject matter of criminal revision before the revisional court had not discussed or referred to any evidence led by the parties though it appears from the record that the petitioner therein had not only submitted his own affidavit but of his witnesses as well, which was neither considered nor referred in the order passed by the learned ADM Jammu. Though the revisional court has referred to two different dates of October to have passed order by the ADM Jammu, which in the considered opinion of this court is not the correct view taken by the revisional court as the order passed on 04.10.2018 was forwarded on 11.10.2018, which has been misconstrued by the revisional court to have been announced on 11.10.2018.

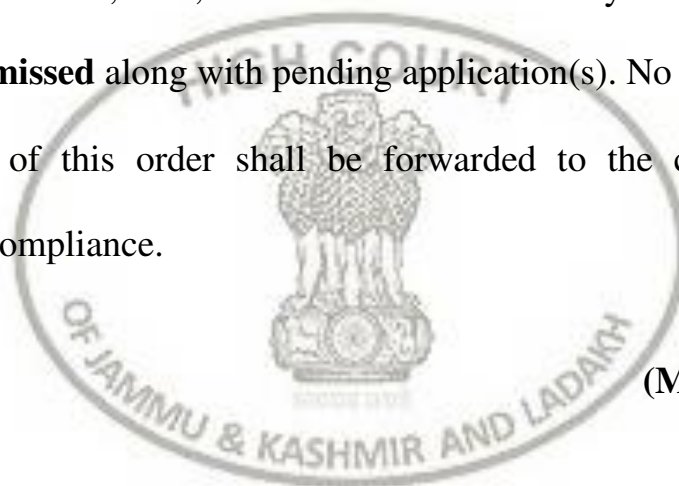
12. The order passed by the learned ADM Jammu which had been ordered to be set aside by the revisional court, was not a reasoned order as the Id. ADM Jammu had not taken pains to refer to the evidence led by the parties before passing the final order, as such, the Id. ADM Jammu had aborted the legal proceedings against the procedure prescribed under Section 145 CrPC. So far as the contention of the learned Sr. counsel for the petitioner that the orders passed by the civil courts in civil suit as well as appeals regarding the conclusive finding of fact that the petitioner was in possession of the land is concerned, the

same can be a factor to be considered by the Magistrate and this Court in my considered opinion should leave this matter to be decided by the Magistrate concerned, after hearing both the parties. Of course, the finding recorded by a civil court is a matter of precedence before the Magistrate invoking jurisdiction under Section 145 CrPC.

13. For the foregoing reasons and observations made hereinabove, this court is of the considered opinion that the order passed by the revisional court setting aside the order passed by the Id. ADM Jammu, without any reasons, has been passed perfectly in consonance with law and does not call for any interference by this court invoking inherent jurisdiction.

14. The petition is, thus, found to be devoid of any merit and substance and is hereby **dismissed** along with pending application(s). No order as to costs.

15. Copies of this order shall be forwarded to the courts below for information and compliance.



(M A Chowdhary)
Judge

JAMMU
08.04.2026.
Raj Kumar

Whether the order is speaking: Yes
Whether the order is reportable: Yes