IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.555 of 2021

Jadu Raut, aged about 62 years, Son of Late Harihar Raut, resident of Village – Kairo, P.O. and P.S. Jarmundi, District – Dumka.

… Petitioner

Versus

1. The State of Jharkhand
2. Santosh Tebriwal, son of Late Bishwanath Tebriwal, resident of Basukinath, P.O. Basukinath, P.S. Jarmundi, District – Dumka. … Opposite Parties

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For the Petitioner : Mr. Durga C. Mishra, Advocate
For the State : Mr. Shailendra Kr. Tiwari, Spl.P.P.
For the O.P. No.2 : Mr. Parth Jalan, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with the prayer to quash and set aside the order dated 21.01.2021 passed in Criminal Revision No. 14 of 2015 by the learned Additional Sessions Judge-III, Dumka whereby and where under the learned Additional Sessions Judge-III, Dumka dismissed the said Revision Petition which was filed challenging the order dated 18.12.2014 passed by the Sub-Divisional Magistrate, Dumka in Criminal Misc. Case No. 842 of 2014.

3. The brief fact of the case is that the opposite party No.2 filed an application under Section 144 of the Code of Criminal Procedure in the

court of the Sub-Divisional Magistrate, Dumka. The same was numbered as Criminal Misc. Case No. 842 of 2014. The Sub-Divisional Magistrate, Dumka considered that the first party, who is the opposite party No.2 herein, is claiming the possession of the disputed land on the basis of him being the descendant of the recorded tenant – Devi Lal Marwari @ Devi Dutta Marwari; whereas the members of the second party are claiming the disputed land being the descendents of the then Pradhan – Mohan Raut. The dispute between the parties requires enquiry. There is an apprehension of breach of peace between the parties in respect of the possession of the disputed land. There is requirement for recording of oral evidence and documentary evidence and by thus observing, the Sub-Divisional Magistrate, Dumka has converted the proceeding under Section 144 of the Code of Criminal Procedure to a proceeding under Section 145 of the Code of Criminal Procedure.

4. Being aggrieved by the said order dated 18.12.2014, the petitioner filed Criminal Revision No. 14 of 2015 which was ultimately heard and disposed of by the learned Additional Sessions Judge-III, Dumka vide the order dated 21.01.2021. The learned Additional Sessions Judge-III, Dumka considered that since the proceeding under Section 144 of the Code of Criminal Procedure has been converted to a proceeding under Section 145 of the Code of Criminal Procedure, hence, the parties are claiming their possession by adducing their evidence before the court concerned so that the quarrel of possession over the disputed land can be decided by the court concerned. It was also observed by the

divisional Court that from the report submitted by the concerned police official, on 16.09.2014, there was apprehension of breach of peace between the parties in respect of their rival contradictory claim of possession over the disputed land which can disturb the public tranquility as also may result in breach of peace and after thus considering, the learned Sessions Judge-III, Dumka did not find any illegality in the said order dated 18.12.2014 and dismissed the Criminal Revision.

5. Learned counsel for the petitioner submits that earlier, the Sub-Divisional Magistrate, Dumka vide the order dated 10.04.2012, dropped the proceeding bearing application no. 14 of 2012 but the opposite party No.2 within two months after dropping the proceeding, again got a proceeding under Section 144 of the Code of Criminal Procedure initiated with respect to the same plot vide Criminal Misc. Case No. 377 of 2012. The said proceeding vide order dated 01.08.2012 was also dropped. It is next submitted that the opposite party No.2 herein, under the same and similar circumstances, again filed a proceeding under Section 144 of the Code of Criminal Procedure which is the present case which was numbered as Criminal Misc. Case No. 842 of 2014 which was, later on vide order dated 18.12.2014, converted to a proceeding under Section 145 of the Code of Criminal Procedure. It is further submitted that the Sub-Divisional Magistrate, Dumka ought not to have initiated the successive proceedings for apprehension of breach of peace as the dispute between the parties is of a civil nature. It is lastly submitted that the petitioner is not aware as to what is the present

position of the said proceeding vide Criminal Misc. Case No. 842 of 2014 of the court of the Sub-Divisional Magistrate, Dumka. It is lastly submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

6. Learned Spl.P.P. appearing for the State and the learned counsel for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioner and submit that the basic objective of Section 144 of the Code of Criminal Procedure is to serve public purpose to preserve public peace and tranquility. The object of Section 145 of the Code of Criminal Procedure is to provide speedy remedy for apprehension of breaches of public peace arising out of dispute relating to immovable property. There is no bar to exercise the power under Section 144 of the Code of Criminal Procedure or 145 of the Code of Criminal Procedure if, on earlier occasion, such power was exercised. It is next submitted that vide the order dated 18.12.2014 passed in Criminal Misc. Case No. 842 of 2014, the Sub-Divisional Magistrate, Dumka has only converted the proceeding under Section 144 of the Code of Criminal Procedure to a proceeding under Section 145 of the Code of Criminal Procedure. It is further submitted that the undisputed fact remains that there is a dispute which is likely to cause breach of peace concerning the disputed land between the parties. It is also submitted that the same is corroborated by the report submitted by the police, so, no illegality has been committed by the Sub-Divisional Magistrate, Dumka in passing the said order. It is lastly submitted that no illegality has been committed by the learned Sessions Judge-III,

Dumka in dismissing the Criminal Revision No. 14 of 2015; hence, this Criminal Miscellaneous Petition, being without any merit be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that Section 145 of the Code of Criminal Procedure enables a Magistrate to intervene or pass a temporary order in regard to the possession of a property in dispute having effect till actual right of the party having determined by a competent Civil Court as has been held by the Hon'ble Supreme Court of India in the case of **Bhinka & Others vs. Charan Singh** reported in **AIR 1959 SC 960.**

8. Now coming to the facts of the case, the undisputed fact remains that the Sub-Divisional Magistrate, Dumka was satisfied from the report of the police officer and also upon other information that a dispute likely to cause a breach of peace, exists concerning the disputed land for determination of the dispute between the parties. Evidence both documentary and oral is required to be recorded; which could not be done within the time period as prescribed in for the proceeding under Section 144 of the Code of Criminal Procedure. Under such circumstances, the Sub-Divisional Magistrate, Dumka converted the proceeding under Section 144 of the Code of Criminal Procedure to a proceeding under Section 145 of the Code of Criminal Procedure.

9. In view of the undisputed fact regarding apprehension of breach of peace in respect of the disputed land between the parties, this Court do not find any illegality in the order passed by the Sub-Divisional Magistrate, Dumka in converting the proceeding under Section 144 of

the Code of Criminal Procedure to a proceeding under Section 145 of the Code of Criminal Procedure merely on the ground that on earlier occasions also, there were such proceedings; as indisputably this proceeding was initiated for a separate cause of action, which occurred subsequent to the dropping/disposal of the earlier proceedings and for the same reason, this Court do not find any illegality in the impugned order dated 21.01.2021 passed by the learned Additional Sessions Judge-III, Dumka in Criminal Revision No. 14 of 2015, warranting interference of this Court in exercise of its power under Section 482 of the Code of Criminal Procedure.

10. Accordingly, this Criminal Miscellaneous Petition, being without any merit, is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 24th of July, 2026
AFR/ Saroj

Uploaded on 27/07/2026