



2026:AHC:196169

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3526 of 2026

Reserved

Heera Lal Alias Gabbar Singh And 3 Others

.....Revisionist(s)

Versus

State Of U.P. And 4 Others

.....Opposite
Party(s)

Counsel for Revisionist(s) : Sr. Advocate, Umesh Chandra Shukla,
Vikas Tiwari

Counsel for Opposite Party(s) : G.A., Ravesh Kumar Singh

Court No. - 88

HON'BLE SANJIV KUMAR, J.

1. Heard Shri Amit Daga, learned Senior Advocate, assisted by Shri Vikas Tiwari, learned Counsel for the revisionists and Shri Shivrath Singh, learned Senior Advocate assisted by Shri Ravesh Kumar Singh, learned Counsel for opposite party nos.3 to 5 and learned A.G.A. on behalf of the State.

2. This criminal revision has been filed against the order dated 20.05.2026 passed by the City Magistrate, Mathura in Case No.2398 of 2025 (Yaduraj Singh Yadav vs. Heera Lal @ Gabbar and Others), under Section 145 Cr.P.C., Police Station Vrindavan, District Mathura.

3. By the impugned order, the learned Magistrate has attached the disputed property under Section 146(1) Cr.P.C. and directed the Tehsildar, Sadar, to hand it over to an independent receiver, as there is a grave danger of breach of peace between both the parties and the position with regard to possession over the land in dispute is not clear.

4. It is submitted by learned Senior Advocate for the revisionists that the impugned order is illegal, unjustified and against the settled principles of law. The learned Magistrate has failed to appreciate the evidence on record correctly and has erred in attaching the disputed land bearing Khasra No.67, situated at Mauja Vrindavan Bangar/Khadar, by showing

the boundary marks of the revisionists' land bearing Khasra No. 67/5, situated at Mauja Vrindavan Khadar. The City Magistrate was fully aware that the dispute between the parties was still pending before the Court of Civil Judge (Junior Division), Mathura, in Original Suit No. 137 of 2026 (Sundar Vs. Yaduraj Singh) and in the said civil suit, the Civil Court, Mathura, had directed the parties to maintain status quo over the property in dispute vide order dated 03.02.2026. Despite the aforesaid injunction order, the City Magistrate passed the impugned order of attachment under Section 146(1) Cr.P.C., which is contrary to the settled principles of law. The City Magistrate failed to consider the fact that the boundary marks of the property, proposed to be attached was identical to the boundary marks of the revisionists' property as mentioned in the plaint of Original Suit No. 137 of 2026. Prior thereto, pursuant to the order of the City Magistrate dated 21.01.2026, a four-member team of Revenue Officials conducted a spot inspection and submitted its report dated 03.02.2026, to the effect that the disputed property is Khasra No. 67/5, situated at Mauja Vrindavan Khadar. However, the City Magistrate, without considering the aforesaid report, attached the property in question by recording that the property in question is situated at Khasra No. 67, Mauja Vrindavan Bangar/Khadar, and has shown the boundaries of the revisionists' land bearing Khasra No. 67/5. Whereas both these properties are different and situated adjacent to each other, and the concerned Magistrate has intermingled both the properties by showing incorrect boundary marks. As per the police report dated 25.05.2024, the disputed property is occupied by the revisionists and their family members, and their houses are situated thereon. Therefore, there was no likelihood of breach of peace. It is also submitted that, in the sale deed pertaining to the land purchased by Yaduraj Singh Yadav and his wife, Veena Yadav, the place where the land is situated is not disclosed. It is further submitted that the inquiry report relates to land bearing Khasra No.67, with which the revisionists have no concern, as they are the recorded owners and are in possession of land bearing Khasra No.67/5. It is also submitted that, in the said inquiry report, the Inquiry Officer has not determined or identified any permanent point or boundary and has, therefore, submitted a biased and misconceived inquiry report. Hence, the impugned order is liable to be set aside.

5. Learned Senior Advocate for the revisionists has relied upon a decision of the Co-ordinate Bench of this Court in **Application U/S 482 Cr.P.C. No.8563 of 2019 (Narendra Singh vs. State of U.P. And others)**, in which, it has been held that if a judgment is challenged in revision or appeal before Constitutional Law Courts, such Courts should have to ensure that things are set right and the emphasis should be laid on core issues to be resolved through judicial process. A jurisdictional error, no doubt, goes to the root of the matter but when it is only at interlocutory stage either in appeal or in revision, the matter can always be remitted to the original court hearing the main matter balancing the equity between the parties.

6. Per contra, learned Senior Advocate, for the private opposite parties has submitted that the revisionists have not approached this Court with clean hands and that their claim over the disputed property is totally based on forged and fabricated documents. The revisionists are land grabbers and the same has also been stated in the inquiry report submitted by the Deputy Collector, Mathura. Radharaman and others have prepared forged documents and staked their claim over the property in dispute. In this regard, an F.I.R. was lodged by one Bihari Lal in the year 2012, in which charge-sheet has been filed and that criminal case has been pending since then. The revisionists filed frivolous Civil Suit No.922 of 2008 to grab the land of Swami Dharam Dev and Shiv Kumar Agarwal and after taking a huge amount of money, withdrew the suit. The claim of the revisionists is based on false and forged documents and, therefore, they are not entitled to any relief.

7. In the inquiry report dated 17.09.2019, it was found that the names of the revisionists were mutated in the revenue records on the basis of forged documents and the revisionists had forcibly occupied the land by putting up a tin shed during the pendency of these proceedings. It is also submitted that the land bearing Khasra No.67/5, Mauja Vrindavan Khadar, has already been acquired for the *Parikrama Marg*. It is next submitted that the order, dated 04.02.2020, passed by the City Magistrate has already been set aside in the revision filed by Yaduraj Singh vide order dated 14.06.2024 and the case was remanded to the Trial Court. The revisionists filed an application under Section 528 B.N.S.S. against the

said order, which was dismissed as not pressed. It is further submitted that the report dated 25.05.2024 was procured by the revisionists in collusion with the police. The revisionists filed Civil Suit No. 137 of 2026, during the pendency of the application filed by them before this Court under Section 528 B.N.S.S., and the Civil Court, without issuing notice to the defendants, granted an interim injunction vide order dated 03.02.2026. The civil suit is based on misrepresentation of facts. Hence, the revision has no force and is liable to be dismissed.

8. Learned Senior Advocate for private opposite parties has relied upon the following decisions of the Hon'ble Supreme Court: ***M/s Prestige Lights Ltd. v. State Bank of India***, reported in **AIR 2007 SCW 5350**; ***S.P. Chengalvaraya Naidu v. Jagannath***, reported in **(1994) 1 SCC 1**; ***A.V. Papayya Sastry & Others v. Government of Arunachal Pradesh & Others***, passed in **Civil Appeal Nos. 5097-5099 of 2004**, decided on 07.03.2007; and ***Ashok Kumar v. State of Uttarakhand & Others***, reported in **AIR Online 2012 SC 383**.

9. The law propounded in the aforesaid decisions is that, under Section 146 Cr.P.C., a Magistrate has to satisfy himself as to whether an emergency exists before passing an order of attachment. A case of emergency, as contemplated under Section 146 Cr.P.C., has to be distinguished from a mere apprehension of breach of peace. The Magistrate, before passing an order under Section 146 Cr.P.C., must explain the circumstances as to why he considers it to be a case of emergency. In other words, to infer a situation of emergency, there must be material on record before the Magistrate, including the submissions of the parties, documents produced and evidence adduced. The ingredients necessary for passing an order under Section 145(1) Cr.P.C. would not automatically attract the attachment of the property. It is also held that one who comes to the Court must come with clean hands and a person whose case is based on falsehood, has no right to seek relief and can be summarily denied relief at any stage of the litigation. A Court of law is also a Court of equity. It is, therefore, of utmost importance that when a party approaches the High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or incorrect facts have been placed before the

Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into the merits of the matter.

10. Learned A.G.A. submits that the impugned order is perfectly justified and suffers from no illegality or infirmity. Therefore, the present revision has no force and is liable to be dismissed.

11. Considering the submissions of both the parties and upon perusal of the record and impugned order, it is clear that the Magistrate passed the impugned order of attachment of disputed property, under Section 146(1) Cr.P.C., on the ground that an emergency exists, the possession of either party over the disputed property is not clear, and there is a grave apprehension of breach of peace between the parties. Therefore, in order to maintain peace, the disputed property has been attached. It is also not in dispute that the civil suit was pending and the interim injunction order was passed prior to the impugned order.

12. Both the parties are claiming their rights over the disputed property. The revisionists claim that the disputed land bears Khasra No. 67/5, situated in Mauja Virndavan Khadar, whereas the Magistrate has attached the property bearing Khasra No. 67, situated at Mauja Vrindavan Bangar/Khadar, by showing the boundaries of the revisionists' land. Therefore, the case of the revisionists is that their property bearing Khasra No. 67/5 has, in fact, been attached by the impugned order. It is also stated that both the properties are adjacent to each other.

13. Learned Senior Advocate for the revisionists also submitted that, pursuant to the direction of the concerned Magistrate, the Revenue Officials conducted a spot inspection and submitted a report dated 03.02.2026, stating that the disputed property is Khasra No. 67/5. However, the Magistrate ignored the said report and attached the property of the revisionists. It is also submitted that the revisionists had filed Civil Suit No. 137 of 2026 with regard to the disputed property bearing Khasra No. 67/5, wherein the Civil Court, vide order dated 03.02.2026, *prima facie* found the plaintiffs to be in possession and directed both the parties to maintain status quo.

14. It is submitted that the pendency of the civil suit and the grant of the

status quo order by the civil court, were well within the knowledge of the Executive Magistrate at the time impugned order was passed. This is evident from the order itself, wherein it has been mentioned that, with regard to the disputed property, revisionist No.3 had filed Civil Suit No. 137 of 2026 before the Civil Judge (Junior Division), Mathura, in which the court had passed an order for maintaining *status quo* on 03.02.2026. Therefore, when the civil suit was already pending and the civil court had already granted an order for maintaining *status quo*, the proceedings under Section 145 Cr.P.C. was not maintainable, and it is the civil court which has to finally adjudicate the rights of the parties in the pending suit.

15. On the other hand, learned Senior Advocate for the private opposite parties has submitted that the claim of the revisionists is based on false and forged documents. It is submitted that the revisionists filed a civil suit during the pendency of their application under Section 528 BNSS before this Court. It is further submitted that the civil court, without issuing notice to the private opposite parties, i.e., opposite party Nos.3 to 5, granted an interim injunction and the said suit was based on misrepresentation of facts. It is also submitted that the revisionists are land grabbers and are trying to grab the property of opposite party Nos.3 to 5.

16. The submissions on behalf of private opposite parties has no force. Filing of a civil suit, during the pendency of an application under Section 528 BNSS, is not barred. So far as the order dated 03.02.2026 passed by the civil court is concerned, whereby an interim injunction was granted in favour of the revisionists of the present proceedings, the concerned civil court was well within its jurisdiction to pass an *ex parte* injunction order. Whether the claim of the revisionists is based on false and forged documents or whether they have committed any misrepresentation of facts before the civil court are matters to be considered and decided by the civil court itself, provided any such issue is raised before it. It is settled law that in proceedings under Section 145 Cr.P.C., the rights of the parties cannot be adjudicated, and such proceedings are merely initiated to prevent breach of peace until the rights of the parties are decided by the competent court.

17. A perusal of the impugned order and the copy of the plaint filed by the

revisionists shows that the boundaries are the same in the suit which is filed before the civil court and also in the impugned order, by which the disputed property has been attached. It appears that the identity of the disputed land is not in question but the dispute is whether the disputed land is situated at Khasra No. 67 or at Khasra No. 67/5, as alleged by the contesting parties. It is not in dispute that, before the impugned order was passed, the civil suit was pending and the civil court had passed an interim stay order. It is the civil court, which would decide whether the disputed land is situated at Khasra No. 67 or at Khasra No. 67/5. Therefore, the proceeding under Section 145 Cr.P.C. does not deserve to be continued.

18. With regard to similar kind of matter a Co-ordinate Bench of this Court in **Application U/s 482 Cr.P.C. No. 9198 of 2021 (Aman Deep Singh Shishya Vs. State of U.P. and Another)**, decided on 20.12.2023, found that, at the time of passing of the preliminary order under Section 145(1) Cr.P.C., an interim order was in existence and the civil suit was pending. The civil court had also found possession of the plaintiff over the property in question. In view of the aforesaid circumstances, the Court held that there was no justification for keeping the parties embroiled in parallel criminal proceedings initiated under Section 145 Cr.P.C., while relying upon the ratio laid down by the Hon'ble Supreme Court in **Amresh Tiwari Vs. Lalta Prasad Dubey and Another**, reported in **(2000) 4 SCC 440**. The relevant paragraphs in *Amresh Tiwari* (supra), are quoted hereinbelow:-

*"12. The question then is whether there is any infirmity in the order of the SDM discontinuing the proceedings under Section 145 of the Criminal Procedure Code. The law on this subject-matter has been settled by the decision of this Court in the case of **Ram Sumer Puri Mahant v. State of U.P.** [(1985) 1 SCC 427: 1985 SCC (Cri) 98] In this case it has been held as follows:*

"When a civil litigation is pending for the property wherein the question of possession is involved and has been adjudicated, we see hardly any justification for initiating a parallel criminal proceeding under Section 145 of the Code. There is no scope to doubt or dispute the position that the decree of the civil court is binding on the criminal court in a matter like the one before us. Counsel for Respondents 2-5 was not in a position to challenge the proposition

that parallel proceedings should not be permitted to continue and in the event of a decree of the civil court, the criminal court should not be allowed to invoke its jurisdiction particularly when possession is being examined by the civil court and parties are in a position to approach the civil court for interim orders such as injunction or appointment of receiver for adequate protection of the property during pendency of the dispute. Multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. We are, therefore, satisfied that parallel proceedings should not continue."

*"13. We are unable to accept the submission that the principles laid down in **Ram Sumer case [(1985) 1 SCC 427 : 1985 SCC (Cri) 98]** would only apply if the civil court has already adjudicated on the dispute regarding the property and given a finding. In our view Ram Sumer case [(1985) 1 SCC 427 : 1985 SCC (Cri) 98] is laying down that multiplicity of litigation should be avoided as it is not in the interest of the parties and public time would be wasted over meaningless litigation. On this principle it has been held that when possession is being examined by the civil court and parties are in a position to approach the civil court for adequate protection of the property during the pendency of the dispute, the parallel proceedings i.e. Section 145 proceedings should not continue.*

*14. Reliance has been placed on the case of **Jhummal v. State of M.P. [(1988) 4 SCC 452 : 1988 SCC (Cri) 974]** It is submitted that this authority lays down that merely because a civil suit is pending does not mean that proceedings under Section 145 of the Criminal Procedure Code should be set at naught. In our view this authority does not lay down any such broad proposition. In this case the proceedings under Section 145 of the Criminal Procedure Code had resulted in a concluded order. Thereafter the party, who had lost, filed civil proceedings. After filing the civil proceedings he prayed that the final order passed in the Section 145 proceedings be quashed. It is in that context that this Court held that merely because a civil suit had been filed did not mean that the concluded order under Section 145 of the Criminal Procedure Code should be quashed. This is entirely a different situation. In this case the civil suit had been filed first. An order of status quo had already been passed by the competent civil court. Thereafter Section 145 proceedings were commenced. No final order had been passed in the proceedings under Section 145. In our view on the facts of the present case the ratio laid down in Ram Sumer case [(1985) 1 SCC 427 : 1985 SCC (Cri) 98] fully applies. We clarify that we are not stating that in every case where a civil suit is filed, Section 145 proceedings would never lie. It is only in cases where civil suit is for possession or for declaration of title in respect of the same property and where reliefs regarding protection of the property*

concerned can be applied for and granted by the civil court that proceedings under Section 145 should not be allowed to continue. This is because the civil court is competent to decide the question of title as well as possession between the parties and the orders of the civil court would be binding on the Magistrate."

19. In view of the above legal position, the impugned order of attachment of the disputed property is not sustainable in the eyes of law. Thus, the revision is allowed, and the impugned order dated 20.05.2026 passed by the City Magistrate, Mathura, in Case No. 2398 of 2025 under Section 146(1) Cr.P.C. is **set aside**.

20. Accordingly, the instant criminal revision is **allowed**.

(Sanjiv Kumar,J.)

September 18, 2026

Amit