

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No.117 of 2016**

Suchit Choubey, S/o. Late Shri Ramsewak Choubey, aged about 55 years, R/o. Kenabandh Bouripara Ambikapur, Thana & Tahsil – Ambikapur, Civil and Revenue District- Sarguja (C.G.)

---- Applicant**Versus**

1. Sunita Sharma, W/o. Shri Ashok Sharma, aged about 61 years, R/o. Kenabandh Bouripara Ambikapur, Thana & Tahsil – Ambikapur, Civil and Revenue District – Sarguja (C.G.)
2. State of Chhattisgarh, Through the District Magistrate, Ambikapur, District – Surguja (C.G.)

---- Respondents

For Petitioner	:	Mr. Sunil Sahu, Advocate.
For State/Respondent	:	Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****27/01/2016**

Heard.

1. Challenge in this petition is to the order dated 30.11.2015, passed in Criminal Revision No.28/2015, passed by Fifth Additional Sessions Judge, Ambikapur, District – Sarguja (C.G.), whereby the order passed by the Sub-Divisional Magistrate, Ambikapur dated 06.05.2015, in Misc. Criminal Case No.60/2014, is affirmed. The issue pertains to the invocation of proceedings under Section 145 of Cr.P.C.. The Court below after evaluating the facts came to the finding that no dispute is existing touching the possession of the property and if the constructions are being carried out then it may lead to dispute.

2. Perusal of the order shows that the Court has come to a finding of fact after the memo was received from the concerned police station that both the parties are not raising any superstructure over the land and the finding is arrived at that presently no dispute is existing with respect to the possession of the property. The Court has also recorded that in case of any dispute for the construction if made arises, then either agreed party may file civil suit for their redressal.
3. Perusal of the order shows that complete finding of fact have been recorded that no dispute is existing presently with respect to the possession of the property under Section 145 of Cr.P.C. Consequently, the provisions of section 145 of Cr.P.C. can not be invoked under the presumption that in case in future the dispute arises and therefore, the proceedings under Section 145 of Cr.P.C. would be applicable. Therefore, also I am of the opinion that this is not a case whereby the extra ordinary jurisdiction of the High Court vested in it under Section 482 of Cr.P.C. requires to be invoked.
4. Accordingly, the petition fails and it is dismissed at the motion stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE