

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1104 of 2015**

- Harvansh Singh S/o Mehar Singh Sardar Aged About 70 Years R/o Village Gourela, Tahsil Pendraroad, District Bilaspur Chhattisgarh

---- Applicant**Versus**

- Manjeet S/o Harvansh Singh Sardar R/o Village Gourela, Tahsil Pendraroad, District Bilaspur Chhattisgarh

---- Non-applicant

For Applicant	:	Ms. Hamida Siddiqui, Advocate.
For Non-applicant	:	Mr. Anil Gulati, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****31/08/2016**

1. The present Revision Petition has been preferred assailing the order dated 05.11.2015 passed by the Additional Sessions Judge, Pendraroad, District Bilaspur in Criminal Revision No. 39/2014.
2. The fact in brief relevant for the adjudication of the present case is that at the instance of the Applicant the Sub Divisional Magistrate, Pendraroad, District Bilaspur has initiated proceeding under Section 145 of the Cr.P.C. against the dispute between the parties and Vide order dated 31.05.2014 decided the same in favour of the present Applicant holding that the Applicant had the disputed property in his possession, therefore it was ordered accordingly. The said order dated 31.05.2014 was put to challenge by way of a revision vide Criminal Revision No. 39/2014 before the Additional Sessions Judge,

Pendraroad, District – Bilaspur. The Revisional Court vide the impugned order dated 05.11.2015 has reversed the order dated 31.05.2014 passed by the Sub Divisional Magistrate and held that the property in dispute was in fact in possession of the Non-applicant herein i.e. the two sons of the Applicant.

3. Learned Counsel for the Applicant submits that the findings of the Sub Divisional Magistrate was on the basis of the Patwari report who had visited the spot and given the report that the property was under actual possession of the Applicant on the date immediately before the dispute has arisen. He further submits that the finding of the Patwari has not been looked into by the Revisional Court and the Revisional Court has on its technicalities without appreciating the evidence which had come before the Magistrate, decided the revision against the Applicant.
4. Learned Counsel for the Non-applicant however submits that the Applicant himself had initially filed a civil suit for the same dispute before the Civil Judge, Class – II, Pendraroad along with the application for grant of injunction under Order 39 Rule 1 & 2 of the C.P.C. which has been rejected and it is subsequently, the proceedings under Section 145 of Cr.P.C. has been initiated which therefore would not be sustainable. He further submits that the Revisional Court has not committed any illegality and infirmity while rejecting the complaint on account of the fact that there is admission of fact by the Applicant himself in the suit which he had filed before the Court below whereby he has specifically mentioned that the disputed property fell in the share of the Non-applicant by way of partition of the property between the sons of the Applicant. That only on the basis of the said averments and pleading made in the Court of law the Revisional Court has set aside

the order of the Sub Divisional Magistrate.

5. Having considered the rival contentions put forth by the parties on either side and a perusal of the record what clearly reflects from the order passed by the Revisional Court is the fact that the Applicant for the same cause on an earlier occasion preferred a civil suit which has been decided against the Applicant. The Applicant is silent about this fact whether the rejection of the application for grant of interim injunction has been assailed any further or not. The Applicant also does not dispute the fact that the Applicant himself in the pleading of the civil suit has mentioned that the said disputed property fell in the share of the Non-applicant in the course of partition that he has made in respect of his property. This facts by itself is sufficient to show that prima facie the findings arrived at by the Magistrate was not proper and therefore the Revisional Court has set aside the same.
6. In the absence of any cogent explanation or for that matter any documentary proof annexed along with the present Revision Petition to show that the findings arrived at by the Revisional Court is bad in law, this Court is of the opinion that the Revisional Court has not committed any illegality or infirmity warranting interference of the same.
7. Thus, the Revision Petition being devoid of merits, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE