

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 207 of 2014**

1. Damru S/o. Arjun Aged About 52 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
2. Hari S/o. Bhadar Aged About 75 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
3. Arjun S/o. Antu Aged About 74 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)

---- Petitioners**Versus**

1. Mangalsai S/o. Sondhar Aged About 70 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
2. Debo S/o. Harishchandra R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
3. Asay S/o. Sonadhar Aged About 65 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
4. Butu S/o. Shri Sonadhar Aged About 68 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
5. Manglu S/o. Sonadhar Aged About 67 Years R/o. Vill. Matnar, Tah. Bakawand, P.S. Karpawand, Civil & Rev. Distt. Bastar (C.G.)
6. State Of Chhattisgarh Through: Collector, Jagdalpur (C.G.)

---- Respondents

For the Petitioners : Shri R.N. Pusty, Advocate.
 For respondent No.1 : Shri Mayank Chandrakar, Advocate.
 For respondent No.6/ State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.08.2017**

1. Heard.
2. Learned counsel for the petitioners submits that one complaint was filed by outpost P.S. Karpawand before the Sub-Divisional Officer, Jagdalpur on 26.7.2000, submitting that there is a dispute between the parties, who are parties in this petition as well, with respect to possession of land situated in

Gram Matnar. A preliminary order was passed by the Sub-Divisional Magistrate, Jagdalpur, Chhattisgarh asking the parties to give appearance before the Court and submit their case. Later on, after the appearance of the parties, order dated 3.6.2011 was passed, in which the finding was given that respondent No.1 is the person entitled for possession and an order of restraint was passed against the present petitioner. This order was challenged before the Sessions Court at Jagdalpur in Revision Petition No.20 of 2011, which was dismissed on 5.8.2013 by the Additional Sessions Judge, FTC, Bastar at Jagdalpur. Hence, this petition.

3. Learned counsel for the petitioner submits that the requirement under the proviso to Sub-section (4) of Section 145 of the Code of Criminal Procedure reveals, that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub- section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub- section (1). It is submitted that no specific finding has been given by either of the Courts below, hence, the matter needs to be remanded to the Court below for recording the specific finding in this regard, as to whether respondent No.1 was forcibly and wrongfully dispossessed within a period of two months from the complaint dated 26.7.2000.

4. Learned counsel for the respondents have opposed the petition and the submissions made on behalf of the petitioners. It is submitted that the parties in this case are already litigating against each other in Civil Court.

Effective relief can be sought from the Civil Court and there is no need to proceed with this petition or to remand the case for re-appraisal of evidence for deciding the case afresh.

5. The scope of Section 145 of the Cr.P.C. is different and independent from the scope of Civil Jurisdiction. A Civil Court finally adjudicates the rights and liabilities of the parties contesting before the Court whereas, Section 145 of the Cr.P.C. deals with interim measures without entering into the question of rights, title etc. which is under the domain of the Civil Court. Hence, the entitlement of a party to seek a relief under Section 145 of the Cr.P.C. cannot be taken away, just for the reason that Civil Litigation is pending between the parties. Hence, for these reasons, the dispute between the parties has to be resolved with a clear finding by the Court below on the question as aforementioned.

6. Hence, this petition is allowed at the motion stage. The order passed by the Additional Sessions Judge, FTC, Jagdalpur is hereby set aside. It is directed that the revision petition shall be decided afresh by the Court below giving a specific finding on the question of possession within a period of two months from the date of filing a complaint before the Court of Sub-Divisional Magistrate, Jagdalpur. The revision petition may be decided as early as possible preferably within a period of four months.

7. In view of above, the petition stands disposed of.

Sd/-

(Rajendra Chandra Singh Samant)
Judge