

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 230 of 2017

Kusum Bharati S/o Baliram Bharati, Aged About 40 Years R/o Village And Thana
Uraga, Tahsil & District Korba Chhattisgarh

---- Petitioner

Versus

1. Anil Kumar S/o Janakram Satanami, R/o Village Kanberi, Thana Uraga, Tahsil &
District Korba Chhattisgarh
2. State Of Chhattisgarh Through The Collector Korba, District Korba Chhattisgarh
3. The Sub-Divisional Officer (R) Korba District Korba Chhattisgarh

---- Respondents

For Petitioner	:	Shri Bharat Rajput, Advocate
For Respondent / State	:	Shri D.R.Minj, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/02/2017

Heard on admission.

This petition has been filed by the petitioner aggrieved by order dated 31/12/2016 passed in revision whereby the learned Revisional Court has affirmed order dated 18/11/2015 passed by the Sub-Divisional Officer dismissing the application under Section 145 of CrPC.

2. Learned counsel for the petitioner argued that earlier, there existed dispute between the petitioner on one side and Sukhsingh (minor) as well as Anil Kumar, Kapil Kumar, Anadram, Santosh and Sudhir on the other side. Though in these proceedings, orders were passed by the Sub-Divisional Officer affirmed by the Revisional Court and the matter came before this Court wherein, the petitioner was allowed to withdraw the petition with liberty to take recourse to civil remedy, later on, the petitioner and Suksingh entered into settlement and Sukhsingh withdrew his suit which he had earlier filed. Thereafter, according to the petitioner, he continued to be

in possession of the land and now, respondent / Anil Kumar started disturbing his possession and there is likelihood of breach of peace. It is submitted that the Sub-Divisional Officer should have first called the report and proceedings ought to have been initiated to decide the issue with regard to possession and protect the parties, who have been in possession of the property till adjudication of dispute in civil proceedings.

3. Both the Courts below have dismissed the case of the petitioner taking into consideration that in earlier round of proceedings under Section 145 of CrPC, as between the petitioner on one side and respondent No.1 and many others on other side, possession of other side was found proved. The petitioner was granted liberty by this Court way back in the year 2012 to file suit. The petitioner, after four years, has again started dispute with regard to the same land impleading the name of Anil Kumar, who was also party in the earlier proceedings.

4. The attempt on the part of the petitioner to again invoke provisions under Section 145 CrPC appears to be ingenious design by limiting his application only against Anil Kumar. In earlier proceedings, Suksingh, Anil Kumar and many others were party and the petitioner was not found to be in possession and lost before this Court and withdrew the case. Instead of filing civil suit, the petitioner has again filed application under Section 145 CrPC in respect of the same property. The Courts below have not committed any illegality in dismissing the case of the petitioner. No case for interference by this Court under Section 482 CrPC is made out. The petition is accordingly dismissed. Liberty granted to the petitioner to file civil suit stands.

Sd/-
(Manindra Mohan Shrivastava)
Judge