

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-14679 of 2014 (O&M)

.....

Date of decision:3.3.2017

Inder Singh and others

...Petitioners

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sandeep Panwar, Advocate for the petitioners.

Mr. B.S. Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Chander Shekhar, Advocate for respondents No.2 to 9.

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Inderjit Singh, J.

The petitioners have filed this petition under Section 482 Cr.P.C. for quashing the order dated 21.11.2012 (Annexure-P.8) passed by the Court of Executive Magistrate-SDM, Guhla, District Kaithal, whereby the proceedings under Sections 145 and 146 Cr.P.C. were initiated and possession of the land of the petitioners was taken over by respondent No.1 and further directing respondent No.1 to hand over the possession of the land of the petitioners till final adjudication of civil proceedings between the parties.

Notice of motion was issued in this case.

Mr. B.S. Virk, learned Deputy Advocate General, Haryana has

put in appearance on behalf of the respondent-State and Mr. Chander Shekhar, learned Advocate has appeared for respondents No.2 to 9 and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

It is admitted fact that earlier both the petitioners as well as private respondents filed the suits and the suits of the respondents have been dismissed. As per the revenue record, the petitioners have been shown in possession. Furthermore, as argued the possession had been taken from the petitioners while initiating the proceedings under Sections 145 and 146 Cr.P.C.

The only argument of the learned counsel for the petitioners is that when the civil proceedings are pending, then no parallel criminal proceeding can be initiated. It is admitted fact between the parties that now the appeal is pending and even this Court has stayed the operation of the judgment. Both the parties admitted that the appeal is pending before this Court.

It is settled law that when the civil Court is seized of the matter, then the parallel criminal proceedings under Sections 145 and 146 Cr.P.C. are not maintainable. The learned counsel for the petitioners relied upon the law laid down by the Hon 'ble Supreme Court in Dharampal and others v. Ramshri (Smt.) and others, (1993) 1 SCC 435, in which it has been held that attachment order under Section 146 Cr.P.C. comes to an end as soon as civil Court passes even an interim order or appoints a receiver and accordingly

Magistrate must withdraw the attachment order in view of seizure of the matter by civil Court. Final determination of rights of the parties by the civil Court is not essential for cessation of the attachment order and its consequent withdrawal.

I have gone through the law laid down in this judgment, which fully applies to the facts of this case.

Therefore, keeping in view the facts and circumstances of the present case, I find that parallel proceedings cannot continue. The rights of the parties are to be decided by the civil Court where the matter is pending.

Consequently, finding merit in the present petition, the same is allowed. The order dated 21.11.2012 passed by the Court of Executive Magistrate is quashed. The possession of the land in question be restored to the persons/petitioners from whom it was taken by respondent No.1.

March 3, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No