

CRM-M-8474-2013

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-8474-2013 (O & M)

Date of Decision: 22.03.2017

Dewan and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Ashok Kaushik, Advocate,
for the petitioners.

Mr. Kuldeep Sharma, DAG, Haryana.

Mr. Adarsh Jain, Advocate,
for respondent No.3.

INDERJIT SINGH, J.

Petitioners-Dewan, Mukat and Suresh have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') against respondents-State of Haryana, Sub Divisional Magistrate Hathin and Chandra seeking quashing of Kalandara under Sections 145 and 146 Cr.P.C. dated 14.12.2012 (Annexure P-3) and order dated `11.02.2013 (Annexure P-4) whereby land of the petitioners has been attached and Naib Tehsildar, Hathin has been appointed as Receiver.

Notice of motion was issued. Learned State counsel put in appearance on behalf of respondent Nos.1 and 2 and respondent No.3 also appeared through her counsel. They contested this petition.

CRM-M-8474-2013

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

At the time of arguments, it is admitted fact between the parties that when proceedings under Section 146 Cr.P.C. were going on, then a civil suit between the parties was also pending. It is also mentioned in the petition that the petitioners filed a suit for permanent injunction against the private respondent which was pending before learned Civil Judge, Hathin. It is also mentioned that Civil Revision No.7444 of 2012 challenging the order passed in the application under Order 39 Rules 1 and 2 CPC, was pending for 22.05.2013 before this Court. It is also the case of the petitioners that this Court passed the status quo order regarding possession in favour of the petitioners on 29.01.2013 in the said revision. As per the petitioners, an application was given by the private respondent and the local police presented the Kalandra dated 14.12.2012 (Annexure P-3) against the petitioners.

Learned counsel for the petitioners argued that the Sub Divisional Magistrate, Hathin has wrongly attached the property of the petitioners vide impugned order dated 11.02.2013 (Anenxure P-4) without giving the opportunity of leading evidence etc. to the parties. This position is not contested by learned State counsel and learned counsel for respondent No.3. It is settled law that when there is a dispute qua the possession of the land and civil litigation for the same property is pending, then parallel criminal proceedings under Section 145 Cr.P.C. should not be permitted to continue . In ***Ram Sumer Puri Mahant vs. State of U.P. and others*** AIR 1985 SC 472, the Hon'ble Supreme Court has held that parallel criminal

CRM-M-8474-2013

proceedings under Section 145 Cr.P.C. should not be continued and the order of learned Magistrate should be quashed. It has also been held that multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. In the present case, since the Civil Court has already seized of the matter, therefore, parallel proceedings under Sections 145 and 146 Cr.P.C. cannot be allowed.

In view of these findings, this judgment is fully applicable to the facts of the present case. Resultantly, the instant petition is allowed and the Kalandara under Sections 145 and 146 Cr.P.C. dated 14.12.2012 (Annexure P-3); order dated `11.02.2013 (Annexure P-4) and all the subsequent proceedings arising therefrom are hereby quashed.

22.03.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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