

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 542 of 2018**

- Smt Kalawati D/o Shri Sunder Aged About 50 Years By Caste- Rajwar, R/o- Village- Narkalo, Post- Chandrmedha, Tahsil- Bhaiyathan, District- Surajpur, Chhattisgarh

---- **Petitioner****Versus**

- Prabhu S/o Shiv Sampat Aged About 38 Years By Caste- Rajwar, R/o- Village- Narkalo, Post- Chandrmedha, Tahsil- Bhaiyathan, District- Surajpur, Chhattisgarh

---- **Respondent**

For Petitioner : Shri Sushil Dubey, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****20/03/2018**

1. Heard.
2. The instant petition is against the order dated 31.01.2018, passed in Criminal Revision No.02/2018, whereby the order passed by the SDM dated 15.12.2017 in proceeding under Section 145 of the Cr.P.C. wherein the crop was attached and was ordered to be kept in custody of the Sarpanch of the village over a disputed land, has been affirmed.
3. Learned counsel for the petitioner would submit that no order for the attachment of the property of the suit land could have been passed by the SDM that too without any enquiry. He would further submit that in order to an attachment of the property, the application under Section 146 CRPC was must and without there being an application under Section 146 CRPC, the

crop could not have been attached. He would further submit that the application under Section 145 CRPC is not maintainable in absence of an application under Section 146 CRPC.

4. Perused the order. Perusal of the order would show that a dispute in respect of the possession of the suit land situated at Village Narkalo, Tehsil Bhaiyathan, District Surajpur was existing in between the parties and both the parties were claiming that they are in possession through their predecessor entitle. Subsequently, one of the party filed the application under Section 145 CRPC and the application having been filed, the SDM, Bhaiyathan, District Surajpur has directed for attachment of the crop so that its natural decay can be arrested in the field and it was further ordered that after harvesting the crop, the same may be kept in the custody of the Sarpanch of the village.

5. Section 145 (8) CRPC reads as under :-

“145. Procedure where dispute concerning land or water is likely to cause breach of peace.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale- proceeds thereof, as he thinks fit.”

6. Considering the nature of attached property i.e. crop and has been directed to be kept under the custody of the Sarpanch, the same cannot be said to be illegal since the order has been passed as an interim measure. If the crop is allowed to stand on the disputed land, it may be subject to natural decay. The interim order which has been passed do not go in favour of either party. In the circumstances, I am not inclined to interfere with such order. Since the parties were claiming right of possession, the SDM,

Bhaiyathan, District Surajpur is directed to decide the primary case under Section 145 CRPC within a period of 5 months from the date of production of this order.

7. With such observation, the CRMP stands disposed of.

Sd/-

Goutam Bhaduri

Judge

Ashu