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

**1. CRM-M-18063-2015  
Date of Decision : November 22, 2018**

Krishan and others  
.... Petitioners

Versus

State of Haryana and others  
.... Respondents

**2. CRM-M-19298-2015**

Krishan and others  
.... Petitioners

Versus

State of Haryana and others  
.... Respondents

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

Present Mr. Virender Rana, Advocate,  
for the petitioners.

Mr. Ashish Sanghi, DAG, Haryana,  
for respondent-State.

**SHEKHER DHAWAN, J.**

Challenge in both the above titled petitions is to the common order dated 13.08.2014 passed by respondent No.2. Therefore, with the consent of the parties, both these petitions are being take up together and are being disposed of by this common order.

2 Facts relevant for the purpose of decision of these revision

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petitions are being taken from CRM-M-18063-2015.

3. Present petition under Section 482 of Code of Criminal Procedure is for quashing the order dated 13.08.2014 (Annexure P/11) passed by respondent No.2 on the ground that the same is cryptic and has been passed without application of judicious mind and in violation of law laid down by Hon`ble Apex Court in **Ashok Kumar Vs. State of Uttarakhand etc., 2013 (3) SCC 366.** The petitioners have also prayed that respondent No. 2 has taken casual approach while passing the impugned order, Annexure P/11 in compliance with directions dated 19.5.2014 (Annexure P/10) having been passed by this Court in CRM-M-17287-2014.

4. On 31.10.2011, the private respondents of this case moved an application before the police of Police Station, Julana, District Jind on the ground that they are lessees of the land measuring 90 Kanals 10 Malas and the petitioners were trying to take illegal possession of the property in dispute. Upon receiving the said complaint, the police presented *calendra* (Annexure P/1) under Section 145 Cr.P.C. before respondent no.2. Respondent No. 2 ordered attachment of land in dispute and appointment of receiver vide order dated 31.10.2011 (Annexure P/2). The petitioners appeared before respondent No.1 apprised him that the land in dispute is joint land measuring 723 Kanals which is still un-partitioned and hence the proceedings under Section 145 Cr.P.C. would not be maintainable. More so, learned lower Appellate Court vide judgment and decree dated 26.09.2011 (Annexure P/3) set-aside the sale deed, lease deed and the consequent mutation regarding ½ share instead of 1/6 share, the benefit of

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which is being wrongly claimed by respondents No. 3 and 4 before respondent no.2 and respondent No. 2 passed order dated 29.11.2011 (Annexure P/4) that the dispute regarding ownership of the land is still pending before this Court and there is no change in the circumstances as mentioned in the complaint and justified the appointment of Tehsildar, Julana as Receiver and attachment of the land in dispute. The revision petition filed by the petitioners was allowed by learned Additional Sessions Judge, Jind on 31.5.2012 and the case was remanded to respondent No. 2 for decision afresh. However, respondent No.2 passed another order dated 12.6.2012 by observing that there is no decision of any competent Court regarding the possession of the land in dispute and there is no change in the circumstances detailed in the *calendra*. As such the order of attachment and appointment of Receiver was ordered to continue.

5. The petitioners moved application before respondent No. 2 taking all these pleas that question of possession has already been decided by the court of Additional District Judge on 26.09.2011 (Annexure P/3) and the parties are co-sharers and as such, land could not be attached. However, learned Additional Sessions Judge dismissed the revision petition on the ground of maintainability.

6. Respondent No. 3 challenged the judgment and decree dated 26.09.2011 (Annexure P/3) having been passed by learned Additional District Judge, Jind before this Court by filing RSA No.4017 of 2011, **Parmod Kumar Vs. Fateh Singh and others** which came up for hearing before this Court on 13.8.2012 and interim order was passed thereby directing the parties to maintain status quo regarding possession vide order

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dated 13.08.2012 (Annexure P/9).

7. The petitioners challenged the order dated 12.6.2012 (Annexure P/6) before this Court by filing CRM-M-17287-2014 and on 19.5.2014, directions (Annexure P/10) were issued to respondent No. 2 to dispose of the proceedings as expeditiously as possible but not later than three months from the date of receipt of certified copy. Respondent No. 2 passed the impugned order, dated 13.08.2014 (Annexure P/11) whereby instead of disposing of the proceedings, adjourned the same *sine die*.

8. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the fact that the parties to the litigation are joint owners of the property and the civil dispute regarding declaration of title is pending before this Court in RSA No.4017 of 2011, **Parmod Kumar Vs. Fateh Singh and others**. Law on the point is settled that if dispute between the joint owners regarding title is pending before the Civil Court of competent jurisdiction, the proceedings under Section 145 Cr.P.C. are not maintainable. There is no dispute that the parties are co-sharers and the Civil Court is also seized of the dispute between the parties regarding possession etc., and the order of status quo has already been passed. In the considered opinion of this Court, the initiation and continuation of proceedings under Section 145 Cr.P.C. and the order of appointment of Receiver under Section 146 Cr.P.C. would amount to abuse of process of the Court.

9. Similar matter was before this Court in **Des Raj and others Vs. State of Punjab and others**, 2010(4) R.C.R. (Criminal) 557, **Karam**

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**Singh Vs. Divisional Magistrate, Zira, 2001 (2) R.C.R. (Criminal) 617,**  
**Labh Singh and another Vs. Jaswinder Kaur and others, 1992(1) CLR**  
**24. In Babu Singh Vs. Moti Ram and others, 1991(1) R.C.R. (Criminal)**  
**144,** identical view was taken by this Court that if the Civil Court was already seized of the dispute qua possession between the co-sharers, proceedings under Section 145 of Code of Criminal Procedure were not maintainable and accordingly the same were quashed in that case.

10. Resultantly, the present petitions are allowed and the orders dated 13.08.2014 (Annexure P/11) and proceedings under Section 145 and order appointing Receiver under Section 146 Cr.P.C. are hereby quashed.

**(SHEKHER DHAWAN)**  
**JUDGE**

**November 22, 2018**

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| Whether speaking/reasoned? : | Yes |
| Whether reportable? :        | Yes |