

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

CRM-M-21543 of 2015 (O&M)

Date of Decision: 16.08.2018

Om Parkash

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. P.K. Ganga, Advocate
for the petitioner.

Mr. Munish Sharma, A.A.G. Haryana.

Mr. Ashok Verma, Advocate
for respondents No.3 to 6.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has prayed for the following relief:

“Petition under Section 482 Cr.P.C seeking the kind indulgence of this Hon'ble Court for quashing the impugned order dated 6.6.2015 (Annexure P-4) passed by the Additional Sessions Judge, Sirsa and Calendra under Section 145 Cr.P.C preliminary and order dated 5.12.2012 (Annexure P-1 and order dated 03.03.2015 (Annexure P-2) vide which the proceedings under Section 145 Cr.P.C has been initiated without taking into consideration the mandate of law as well as for staying the dis-possession as well as operation of the impugned, in the interest of justice.”

2. Both the parties have not disputed relating to pendency of the appeal arising out of Civil Suit No.314-C of 2011 which has been decided on 1.3.2016 and appeal No.221-CA-2015 is pending consideration wherein there is an interim order operating.

3. Chhattisgarh High Court in the case of ***Joyal Bechak*** v.

Subhash Sawal and another; 2018 CrILJ 1803 while relying on the decision of the Supreme Court in the case of **A. Dhaveethu v. The District Collector** (2016) SCC Online Mad. 17222 and other decisions of the Supreme Court, held that if a suit is pending consideration in respect of particular disputed property, in that even, proceedings under Section 145 is not permissible.

4. Having regard to the aforesaid decision and the fact that disputed property is the subject matter of litigation in appeal No.221-CA-2015 against the decree dated 1.3.2016 passed in Civil Suit No.314-C-2011.

5. Accordingly, impugned order dated 6.6.2015 (Annexure P-4); order dated 5.12.2012 (Annexure P-1) and order dated 03.03.2015 (Annexure P-2) are set aside. Reserving liberty to the parties to avail appropriate remedy in accordance with law.

6. Petition stands allowed accordingly.

16.08.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**