

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 258 of 2014

Sahaju, S/o. Late Jhagru Uraon, Aged About 65 Years, R/o. Vill. Dakawa, Tah. Rajpur, Rev.Distt. Balrampur, Ramanujganj, Civil Distt. Surguja C.G. **---- Petitioner**

Versus

1. Kailu, S/o. Gasiya Uraon, Aged About 52 Years, R/o. Vill. Dakawa, Tah. Rajpur, Rev. Distt. Balrampur Ramanujganj, Distt. Surguja C.G.,
2. State of Chhattisgarh through the Collector District Balrampur Ramanujganj. **--- Respondents**

For Petitioner	:	Ms. Rajkumari Yadav on behalf of Mr. Bhupendra Singh, Advocate
For the State	:	Ms. Shivali Dubey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

20.03.2019

1. The present petition is against the order dated 18.11.2013 passed by the learned Additional Sessions Judge, Ramanujganj dismissing the Criminal revision No. 135/2011. The said revision was preferred against the order dated 17.06.2011 passed in Misc. Criminal Case No. 29/2010-11 whereby the Sub Divisional Magistrate, Rajpur, Distt. Balrampur Ramanujganj, has refused to invoke the jurisdiction under the provisions of Section 145 of Cr.P.C. on the ground that no dispute exists with respect to possession of certain part of land bearing Khasra No. 497/1 for which the complaint was made.

2. Brief facts of the case are that an application was filed by the petitioner on 15.09.2010 under Sections 145 & 146 of Cr.P.C. stating that out of the land bearing khasra No. 497/1 admeasuring 0.485 hectares, the petitioner is in possession of certain part of land i.e., 0.145 hectares. It is the further case of the petitioner that the land was recorded in the name of the respondent and since the respondent was claiming to give back the possession of his land there are chances of breach of peace with respect to possession of the land. It is further case of the petitioner that he has become the owner of the land by virtue of adverse possession. The Court of S.D.M. observed that no dispute exists in respect of the possession of the land, therefore, no adjudication is required qua Section 145 of Cr.P.C.
3. Learned counsel for the petitioner would submit that despite the fact that there exists breach of peace, the trial court failed to exercise the jurisdiction under the provisions of Section 145 of Cr.P.C. to invoke the jurisdiction, as such, the breach of peace exists consequently the courts below should have protected the possession of the petitioner.
4. A perusal of the order would show that the respondent is the owner of the land bearing khasra No. 497/1 admeasuring 0.485 hectares and out of that, the applicant is claiming that he is in possession of certain part of land on eastern side i.e., 0.145 hectares as he has sowed the land.

5. In order to invoke the jurisdiction under Section 145, the real dispute should exist on the spot about the breach of peace qua the possession. The order would show that the applicant Sahaju has admitted the fact that on 06.08.2010 he has filed an application before the Tehsildar to record his possession and before that, seven months back the non-applicant has extended threat that he will reap harvest. The court belows have come to conclusion that the disputed land is not a public land and the public access also does not exist and further observed that no dispute exists as per the evidence of the parties about possession of the land prior to two months of filing of the petition under Section 145 of Cr.P.C. The said finding of fact was rendered by evaluating the evidence. Nothing has been placed before this Court to show as to why such finding is bad in law warranting interference. Consequently, the orders of both the courts below on the finding of fact cannot be interfered with by this Court in exercise of power under Section 482 of Cr.P.C. Accordingly, this petition is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE