

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No. 1200 of 2018

1. Jugal Kishor Kesharwani S/o Late Chhedilal Kesharwani Aged About 50 Years Residing At Gondpara, Thana- City Kotwali, Tahsil & District- Bilaspur, Chhattisgarh.
2. Vimal Kishor Kesharwani S/o Late Chhedilal Kesharwani Aged About 50 Years Residing At Gondpara, Thana- City Kotwali, Tahsil and District- Bilaspur, Chhattisgarh.
3. Anchal Kesharwani S/o Shri Jugal Kishor Kesharwani Aged About 28 Years Residing At Gondpara, Thana- City Kotwali, Tahsil and District- Bilaspur, Chhattisgarh.--- **Petitioners**

Versus

1. Nirmal Chandra Dubey S/o Lalmani Dubey R/o- Subhash Nagar, Gondpara, Thana- City Kotwali, Tahsil and District- Bilaspur, Chhattisgarh.
2. Raju Khatik S/o Suklal Khatik Aged About 50 Years R/o- Tikrapara, Tahsil and District- Bilaspur, Chhattisgarh.
3. State of Chhattisgarh Through- Collector, Bilaspur, District : Bilaspur, Chhattisgarh

--- **Respondents**

15.01.2019	Mr. Dharmesh Shrivastava, counsel for the petitioners. Mr. Vivek Shrivastava, counsel for respondents 1 & 2. Mr. Anant Bajpai, Panel Lawyer, for the State. The challenge in this petition is to the order dated 02.06.2018 passed by the learned VI Addl. Sessions Judge, Bilaspur in Criminal Revision No.114 of 2018, wherein it was held that the order passed by the SDM, Bilaspur u/s 146(1) of Cr.P.C., in the circumstances is not an interlocutory order. The Court below relied on the law laid down in <i>2004 (1) C.G.L.J. 114 – Mahant Lal Das v. Jaitram</i>. Perused the order dated 05.05.2018. A perusal of the order would show that the City Magistrate, Bilaspur by its order had directed for seizure/attachment of shop bearing Nos.46 and has directed to hand it over to a neutral person on <i>Supurdnama</i> till the petition under 145 of Cr.P.C., is finally decided. The said order was subject of challenge before the Revisional Court and the primary objection having been taken, the revisional Court by its order dated 02.06.2018 has held that the revision is maintainable for the reason that order passed	

u/s 146(1) of Cr.P.C., was not an interlocutory order and If the interlocutory order takes away certain rights of the parties, then it cannot form part in interlocutory nature.

A perusal of the impugned order along-with respective order sheets would show that one of the contesting parties were claiming that they are in possession and enjoyment of the suit property. The suit property is also described as shop, therefore, if certain parties are claiming that they are in hold and possession and if the interlocutory order u/s 146(1) Cr.P.C., is filed and the property is attached then in such a case, the parties who were actually in possession may lose their livelihood and continuous process of business. Therefore, as per the principles laid down in *2004 (1) CGLJH 114*, the position has been made clear that the order passed under Section 146(1) of Cr.P.C., attaching the property is not an interlocutory order.

In the instant case, prima facie, it appears that one of the parties are claiming the possession of the shop, therefore, I do not find any merit in the petition warranting interference by this Court in exercise of power u/s 482 of Cr.P.C. and the order impugned appears to be just and well merited which has followed the principles laid down in *2004(1) C.G.L.J 114*.

Accordingly, this petition has no merit and is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE