

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.432 of 2013

1. Hanuman Singh, S/o Late Sunder Singh, aged about 46 years,
2. Gyansingh, S/o Late Sunder Singh, aged about 44 years,
3. Jahan Singh, S/o Late Sunder Singh, aged about 50 years,

All are R/o Village Bartunga, Police Station Pithoura, District Mahasamund (C.G.)

---- Petitioners

Versus

1. Jamuna Bai, widow of Late Narsingh Gond, aged about 60 years,
2. Chamar Rai, S/o Anjor Singh Gond, aged about 65 years,
3. Chandrashekhar, S/o Anjor Singh, aged about 17 years, Minor
4. Khemraj, S/o Anjor Singh, aged about 14 years, Minor,

(The respondents No.3 & 4 are Minors through their natural guardian elder brother namely Chamar Rai)

All are R/o Village Bartunga, Police Station Pithoura, District Mahasamund (C.G.)

5. The State of Chhattisgarh, Through the Collector, Mahasamund, District Mahasamund (C.G.)

---- Respondents

For Petitioners:	Ms. Neha Verma, Advocate.
For Respondents No.1 to 4:	Mr. Pallav Mishra, Advocate.
For Respondent No.5/State:	Mr. Priyank Rathi, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/04/2019

1. The three petitioners herein filed an application under Section 145 of the CrPC that the suit land is jointly recorded in the names of the petitioners and respondents No.1 to 4 herein and they have jointly sown crops which are ready for harvesting, but the respondents herein are likely to harvest the crops which is not justified, therefore, the

crops be seized and it be given on supurdnama to the competent person. On the said application, reply was called and after recording evidence, the application was dismissed by the learned Sub-Divisional Magistrate finding no merit which was affirmed in revision by the revisional Court against which this petition under Section 482 of the CrPC has been preferred.

2. Learned counsel for the petitioners would submit that both the Courts are absolutely unjustified in rejecting the application under Section 145 of the CrPC which was opposed by learned counsel for respondents No.1 to 4 stating that even in the application under Section 145 of the CrPC, there is no pleading as to the breach of peace and existence of dispute which may likely to cause breach of peace and therefore both the Courts are absolutely justified in rejecting the application.
3. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the records with utmost circumspection.
4. A careful perusal of the application under Section 145 of the CrPC submitted by the petitioners herein would show that they have simply pleaded that they have jointly sown crops on the land in dispute along with respondents No.1 to 4 herein which is ready for harvesting and which is likely to be harvested by the other side i.e. respondents No.1 to 4 herein. It has not been pleaded that there is dispute that exists in terms of Section 145(1) of the CrPC which is likely to cause breach of peace between the parties as such, the basic ingredient for attracting Section 145(1) of the CrPC is absolutely missing in the application itself filed before the learned Sub-Divisional Magistrate. Therefore, both the Courts below are justified in holding that the application under

Section 145(1) of the CrPC deserves dismissal and has rightly been dismissed, as the necessary ingredients for invoking Section 145 of the CrPC are absolutely lacking in the application itself. I do not find any merit in the petition, it deserves to be and is accordingly dismissed. However, this will not prevent the petitioners to establish their right in the jurisdictional civil court.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma