

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

CRM-M-37788-2016 (O&M)

Date of decision : 09.12.2019

Rai Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana alongwith
ASI Roop Singh.

Mr. C.B. Goel, Advocate for respondent Nos.2 and 3.

ANIL KSHETARPAL, J. (ORAL)

Prayer in the present petition filed under Section 482 Cr.P.C. is to quash the initiation of proceedings under Section 145 Cr.P.C. and interim order dated 06.10.2016 passed under Section 146 Cr.P.C. by the Executive Magistrate.

Petitioner claims the property on the basis of an agreement to sell executed by Ram Karan dated 18.03.2010 whereas other party claims property on the basis of registered sale deed executed by Ram Karan dated 05.09.2011. It is undisputed that the petitioner filed a Civil Suit No.320 dated 04.12.2013 claiming that he is in possession and entitled to decree for specific performance of the agreement to sell dated 18.03.2010. The

aforesaid civil suit was dismissed and with regard to possession, following findings were returned:-

“18 Further, it is mentioned in agreement to sell that possession has been transferred and it is the version of the plaintiff that he is in possession. In such eventuality, it was the duty of the plaintiff to prove that he is in possession but the plaintiff has been failed to prove his possession over the suit property. Neither there is any khasra girdawari in his name nor any other evidence to show his possession. Rather it appears from the cross examination of the plaintiff that he is not in possession of the suit property. He in his cross examination has stated that he does not know what is the khasra number of suit property. He in his further cross examination has stated that disputed property is situated near link road and front on link road is about ½ kila. The disputed land is situated on western southern side of link road. Thereafter he has stated that it is in western side of link road. He has stated that towards southern side, the land of Ashok is situated and towards northern side land of Raj Kumar is situated. The akshshajara Ex D6 is on record as per which the land is situated towards northern side of link road . It appears that he is not aware of dimensions of suit property. Further he has stated that he took the possession in March 2010, and he sow the crop of chary. Thereafter, he sow peddy crop but as per khasra girdawari, for the March 2010 the crop of wheat has been shown as sown over the suit land .It is therefore clear that plaintiff is not in possession of the suit property.”

It is further undisputed that appeal against the aforesaid judgment and decree passed has also been dismissed.

Learned counsel for the petitioner submits that initiation of

proceedings under Section 145 Cr.P.C. were wrong as petitioner is in settled possession of the property.

This Court has considered the submissions.

Once, the petitioner himself filed civil suit and there is a finding that he is not in possession, therefore, it does not lie in the mouth of the petitioner to now allege that he is in continuous put in possession.

Proceedings under Section 145 Cr.P.C. are at initial stage.

Keeping in view the aforesaid facts, this Court is not inclined to entertain this petition in the facts of the case.

However, Sub Divisional Magistrate is requested to decide the proceedings under Section 145 Cr.P.C. finally within a period of 6 months.

Disposed of, accordingly.

09.12.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No