

\$~7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CRL.M.C. 3133/2016 & CrI.M.A. 13437/2016****JYOTI PRAKASH**

..... Petitioner

Through: **Mr. Rajat Aneja & Ms. Chandrika
Gupta, Advs.**

versus

STATE & ORS.

..... Respondents

Through: **Mr. Sanjeev Sabharwal, APP for the
State.****Mr. M.P.S. Kasana, Adv. for R-2 to 4.****CORAM:****HON'BLE MR. JUSTICE R.K.GAUBA****ORDER**

%

17.01.2019

The present proceedings taken out under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) brought a challenge to the order dated 29.01.2016 of the Sub Divisional Magistrate (SDM) and the order dated 10.08.2016 of the revisional court (in C.R. No. 58145/2016) under Section 145 Cr.P.C. in terms of which, during execution, the petitioner claims to have been evicted from a certain portion in property bearing no. 3448, Nehru Parbat, Jhandewalan, near Dargah Peer Ratan Nathji Maharaj, New Delhi where he claims to have in possession in his own rights, the orders having upheld the contentions of the second to fourth respondents who were party to the proceedings under Section 145 Cr.P.C.

During the course of hearing, it was conceded by both sides that the parties are already locked in litigation in the civil court in a pending suit

instituted by the petitioner against the second to fourth respondents herein. The suit, it is stated, claims certain reliefs *vis-a-vis* the subject property. It is concededly at the stage of evidence of the defendants, only last witness required to be examined, this being confirmed by the counsel representing the second to fourth respondents.

Against the above backdrop, the counsel for the petitioner submitted that, without prejudice to his contentions, he may be permitted to withdraw the present petition, reserving his contentions *vis-a-vis* his claim to the possession and title of the subject property which he is presently pressing before the civil court, he only seeking clarification that the order of the Executive Magistrate which has been upheld in revisional jurisdiction by the court of sessions may not influence the decision of the civil court. It is trite that the findings returned in such proceedings by the Executive Magistrate even though confirmed by the revisional jurisdiction will have to be treated only as tentative and cannot clinch or bind the parties, the decision eventually required to be taken by the civil court.

The counsel for the second to fourth respondents assures that he would cooperate in early conclusion of the proceedings in the civil suit.

The petition and the application filed therewith are dismissed as withdrawn.

JANUARY 17, 2019/nk

CRL.M.C. 3133/2016

R.K.GAUBA, J

page 2 of 2