

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 223 of 2021**

- Rajeshwar Yadav S/o Latelram Yadav Aged About 38 Years Caste Yadav, Occupation Sahukari, R/o Village Basiya, Post Office Hardikala(Tona), Tahsil And District Bilaspur Chhattisgarh.---- **Petitioner**

Versus

1. Chhotelal Kaushik S/o Kriparam Aged About 64 Years R/o Village Limtari, Post Office Hardikala (Tona) , Tahsil Bilha, District Bilaspur Chhattisgarh.,
2. State Of Chhattisgarh. Through District Magistrate Bilaspur Tahsil And District Bilaspur Chhattisgarh., **---- Respondents**

For petitioner	:	Mr. Ratnesh Kumar Agrawal Advocate.
For respondent No.1	:	Mr. J.K. Gupta, Advocate.
For State/respondent No.2	:	Mr.Gurudev I Sharan, Govt. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****07-09-2021**

1. The petitioner has filed the instant petition under Section 482 of Cr.P.C., challenging the order dated 14-12-2020 passed by the learned Sessions Judge, Bilaspur, District Bilaspur in Criminal Revision No. 116 of 2020 in case of (Chhottelal Kaushik vs. Rajeshwar Yadav) whereby learned Sessions Judge allowed the revision filed by respondent No.1 and quashed the order dated 11-11-2020 passed by the Sub Divisional Magistrate, Bilha, District Bilaspur in Criminal Case No. 1 of 2020 whereby the learned Sub Divisional Magistrate closed the proceedings on the count that the petitioner has already filed a civil suit for declaration of title and grant of permanent injunction in which

they can also move an application for appointment of receiver for injunction, therefore, the objection raised by the petitioner has been accepted and closed the proceedings, further directing the Sub Divisional Magistrate to decide the case on its own merits.

2. The petitioner has challenged the order dated 14-12-2020 passed by the revisional Court mainly contending that the petitioner has filed the civil suit for declaration of the title before the trial court and also filed an application for grant of permanent injunction which was rejected against which he has filed an appeal bearing Miscellaneous Appeal No. 26 of 2020 before the First Additional District Judge, Bilaspur, who has allowed the Miscellaneous appeal and granted stay in favour of the petitioner. It has been further contended by learned counsel for the petitioner that against the said order, respondent No.1 has filed miscellaneous appeal before this court which has also been dismissed.
3. From perusal of the application filed under Sections 145 and 146 of Cr.P.C (Annexure P/3), it is crystal clear that the respondent No.1 has filed this application before the Sub Divisional Magistrate, Belha, District Bilaspur on 9-7-2020. Subsequently, the petitioner has filed the suit on 10-8-2020, therefore, the order passed by the learned revisional Court in criminal revision cannot be said to be illegal.
4. The revisional court has allowed the revision petition on this count only and directed the Sub Divisional Magistrate to decide

the said application filed under Sections 145 & 146 of Cr.P.C on its own merit. The said order does not suffer from illegality and irregularity. However, it is directed that the Sub Divisional Magistrate, Bilha to expedite the trial and should complete the proceedings within a period of six months from the date of receipt of a copy of this order. Learned Sub Divisional Magistrate is also directed to decide the said application without being influenced by any of the observations made by this court, on its own merits, in accordance with law. The interim order dated 1-3-2021 passed by this court stands vacated.

5. With the aforesaid observation and direction, the instant petition is disposed of.

Sd/-

(Narendra Kumar Vyas)

Judge

Raju