

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-12003-2019 (O&M)

Date of Decision: 16.5.2023

Raj Gir Chela Baba Jagdish Gir

....Petitioner

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Deepak Malhotra, Advocate,
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

Mr. Brijeshwar Vashist, Advocate for
Mr. Tarunveer Vashist, Advocate,
for respondent No.2.

KARAMJIT SINGH, J.

Present petition has been filed by the petitioner seeking quashing of order dated 22.6.2018 (Annexure P-1) passed by the Court of Sub Divisional Magistrate, Lehragaga (Sangrur) and all the subsequent proceedings arising thereof, conducted by the Court of Sub Divisional Magistrate, Lehragaga.

2. The dispute between the parties is regarding the land of Dera Baba Bihari Gir situated in village Khandebad, Tehsil Moonak, District Sangrur. The petitioner also filed civil suit for declaration that the petitioner is *Mohatmim* of Dera Baba Bihari Gir, Village Khandebad and that respondent No.2 has no concern with said Dera and its property measuring 414K-17M. The suit was decreed but the appellate Court set aside the said decree and dismissed the suit vide judgment dated 8.7.2015. Thereafter, the

petitioner has filed RSA-5343-2015 and the same was admitted vide order dated 9.12.2015 (Annexure P-4) and the said order was passed in favour of the petitioner restraining respondent No.2 from interfering with the possession of the petitioner over the land in question; that CWP-7980-1994 filed by some of the worshipers of the aforesaid Dera is also pending. In the meantime, SDM, Lehragaga has initiated proceedings under Section 145 Cr.P.C. and passed order dated 22.6.2018.

3. Counsel for the petitioner submits that impugned *kalandra* and proceedings initiated by Sub Divisional Magistrate, Lehragaga under Section 145 of Cr.P.C. are not sustainable under law. He further submits that already civil litigation is going on between the parties as is evident from Annexures P-2 and P-4 and this Court has directed both the parties to maintain status quo with regard to possession of property in question and RSA-5343-2015 is still pending between the parties. He further submits that before passing impugned order dated 22.6.2018, the Court of SDM, Lehra vide order dated 13.10.2017 (Annexure P-3) clearly observed that the proceedings under Section 145 Cr.P.C. cannot be initiated as the matter with regard to same property is pending in the Civil Court.

Respondent No.1 filed reply and contested the claim of the petitioner. Even during arguments, the present petition is resisted by counsel for respondent No.2. However, counsel for respondent No.2 has not disputed the fact that civil litigation between the parties is going on and in RSA-5343-2015, parties are directed to maintain status quo regarding possession over the property in question vide order dated 1.12.2016 (Annexure P-2).

5.

I have considered the submissions made by the counsel for the

parties.

6. It is settled law that in general, where civil litigation is pending between the parties with regard to ownership and possession of some immovable property, proceedings under Section 145 of Cr.P.C. are not to be initiated or continued with regard to same subject matter as has been held by Hon'ble Supreme Court in **Amresh Tiwari v. Lalta Prasad Dubey and another; (2000) 4 SCC 440.**

7. In the present case, both the parties are *ad idem* that civil litigation having RSA-5343-2015 with regard to property in question is still pending wherein both the parties are directed to maintain status quo with respect to possession vide order dated 1.12.2016 (Annexure P-2).

8. In the given circumstances, interest of justice demands that proceedings under Section 145 of Cr.P.C. initiated by SDM, Lehragaga should be dropped as High Court is already seized of the same subject matter in RSA-5343-2015.

9. Consequently, the present petition is allowed and impugned order dated 22.6.2018 (Annexure P-1) and all the consequential proceedings thereof are hereby quashed.

(KARAMJIT SINGH)
JUDGE

May 16, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No