

CRM-M-28247-2016 and CRM-M-42582-2013 (O&M)

**²⁴⁸ IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision:-23.03.2023

1. CRM-M-28247-2016

Chhatter Singh and othersPetitioners..

vs.

State of Haryana and othersRespondents.

2. CRM-M-42582-2013

Mahipal and othersPetitioners...

vs.

Chhatter Singh and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhimanyu Singh, Advocate
for the petitioners (in CRM-M-28247-2016) and
for respondents No.1 to 10, 12, 13 and 15
(in CRM-M-42582-2013).

Mr. Randhir S. Hooda, Advocate,
for the petitioners (in CRM-M-42582-2013),
for respondents No.5 to 20 (in CRM-M-28247-2016).

Mr. R.K. Ambavta, AAG, Haryana,
for respondents No.1 to 4-State (in CRM-M-28247-2016) and
for respondent-No.16 (in CRM-M-42582-2013)

HARKESH MANUJA J. (Oral)

1. Vide this order, the aforementioned two petitions are being
disposed of.

2. For convenience, the facts are being taken from
CRM-M-42582-2013.

3. Dispute in the present case relates to agricultural land situated

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in village Sangel, Tehsil Nuh, District Mewat. The said land was leased out by the Gram Panchayat in favour of private respondents on 11.08.2011 who claimed their possession over the same as lessees and cultivated the same. Petitioners having objected to the harvesting of crops, private respondents approached police authorities as well as the Sub-Divisional Magistrate, for the purposes of initiating proceedings under Section 145 Cr.P.C.

4. Upon report having been received from the Block Development and Panchayat Officer, Nuh (hereinafter referred to as “BDPO”) and upon the kalandra received from Station House Officer, Police Station Nuh, under Section 145 Cr.P.C., the Sub-Divisional Magistrate, Nuh, vide order dated 04.04.2012 directed for attachment of land in question, in exercise of powers under Section 145 Cr.P.C. for maintaining peace and order, while appointing BDPO as receiver. In compliance of aforesaid order, BDPO being receiver took over possession of the land in question and upon harvesting the crops received the sale proceeds. In the meanwhile, respondents No.1 to 3, besides Nawabddin son of Ali Mohammad moved an application before the Sub-Divisional Magistrate, Nuh for seeking release of the amount of sale proceeds of crops, which were standing there at the time of attachment order. The aforesaid application was dismissed by the SDM, Nuh vide order dated 15.04.2013 (Annexure P-3). Aggrieved thereof, respondents No.1 to 15 filed an appeal, which came to be decided vide order dated 03.12.2013 passed by the Court of learned District Judge, Nuh. The operative part of the aforesaid order is reproduced as under:-

“Resultantly, the findings as contained in the impugned order are not sustainable in the eyes of law as revisionists have nothing to do with the title of the disputed land and when the crops were sown by Chattar Singh and others despite finality of the order dated 04.04.2012 learned

trial court was supposed to have ordered the release of the amount in favour of revisionists. Hence, the impugned order dated 15.04.2013 is set aside and matter is returned back to the lower court for further proceedings in accordance with law. The record of the trial court along with the copy of this judgment be sent to the concerned court and the record of appeal be consigned to record room after due compliance.”

5. In view of the aforesaid observations, the sale proceeds of last crop was ordered to be released in favour of respondents No.1 to 15.

6. By way of CRM-M-42582-2013, the aforesaid order dated 03.12.2013 passed by the court of learned District Judge, Nuh has been challenged. In a separate but related development, the private respondents filed revision petition, challenging the order dated 04.04.2012 whereby SDM ordered for calling upon the parties to get the adjudication of their rights done through civil court. The said revision came to be dismissed by the court of learned District Judge being barred by limitation. Private respondents have challenged the said order dated 17.10.2015 by way of CRM-M-28247-2016.

7. Learned counsel for the petitioners submits that in the absence of there being any challenge to the order dated 04.04.2012, no such direction regarding release of sale proceeds could have been issued simply on an application moved by the private respondents. He also submits that the order dated 15.04.2013 passed by the Sub-Divisional Magistrate, Nuh could not have been challenged before the District Judge in its civil jurisdiction.

8. On the other hand, learned counsel for the private respondents submits that the order dated 04.04.2012 was merely pertaining to attachment of the land in question besides appointment of receiver and thus, there was no legal bar for them to have separately applied for release of the

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amount/sale proceeds against the last standing crop sown by them. In addition, learned counsel for respondents also submits that the order dated 04.04.2012 was though challenged but after some delay, resulting into the dismissal of revision vide order dated 17.10.2015 (Annexure P-3 of CRM-M-28247-2016) passed by the court of learned District Judge, Mewat, Nuh, which has been challenged by way of CRM-M-28247-2016.

8. I have heard learned counsel for the parties and gone through the paper book. Upon passing of the order dated 04.04.2012, vide which, the attachment of land in question was ordered under Section 145 Cr.P.C. for maintaining peace besides ordering for appointment of BDPO as receiver, the private respondents were well within their rights to apply for release of the amount of compensation as regards the last sown crop, which came to be adjudicated upon by the court of learned District Judge, Nuh, vide order dated 03.12.2013. No doubt, the nomenclature of the court passing the order dated 03.12.2013 was District Judge, Nuh while exercising powers of civil jurisdiction, however, there can not be any dispute about the fact that the same was required to be adjudicated upon in criminal jurisdiction by the same very court and as such mere nomenclature of the heading of the court in the petition filed at the instance of private respondents would not make much difference while exercising jurisdiction by the court below, which apparently was deeply conscious of the proceedings, especially when the parties litigating were mostly farmers from the rural background. Besides it, challenge to the order dated 04.04.2012, which was made at the instance of private respondents by way of CRM-M-28247-2016 though was belated, the same was again required to be adjudicated on merits especially in view of

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way of moving an application for release of amount of crop vide their separate application dated 23.07.2022.

9. In view of the aforesaid observation, both the matters are remanded back to the revisional court to decide the matters afresh upon hearing both the parties, rather than relegating them to the civil court as the private respondents are in no eventuality claiming title to the property, admittedly being lessees. Considering the fact that the matter is pending since last 10 years, it is requested that the final decision be made within a period of four months from today.

23.03.2023
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(HARKESH MANUJA)
JUDGE

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