

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

CRM-M-35509-2016 (O&M)

Date of Decision: 03.02.2023

Hoshiyar and others

.....Petitioners

Vs.

Maya Devi and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Chanderhas Yadav, Advocate for
Mr. R.D. Yadav, Advocate for the petitioners.

Mr. Sanjay Verma, Advocate for
respondent Nos.1 to 7.

Mr. Randhir Singh, Addl. A.G. Haryana
for respondent No.8.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., prayer is made for quashing Kalendra under Section 145 Cr.P.C. (Annexure P-1), order dated 29.05.2012 (Annexure P-2) passed by Learned Executive Magistrate, Rewari vide which proceedings under Section 145 Cr.P.C. were dropped in favour of the respondents; and the order dated 29.07.2016 (Annexure P-4), whereby Learned Additional Sessions Judge, Rewari has dismissed the revision petition filed by the petitioners; and all the subsequent proceedings.

2. The contention of the petitioners is that they are owner in possession of the land in dispute. The contesting respondents claim them to be owners on the basis of registered sale deeds executed in their favour on the basis of alleged forged Power of Attorney. The Station House Officer, Rohrai, District Rewari filed Kalendra under Section 145 Cr.P.C. before

CRM-M-35509-2016 (O&M)

Executive Magistrate, Rewari on 13.11.2009 alleging that first party Ram Niwas etc. were sowing crop on the land in dispute, when petitioners and others came there with weapons and caused injuries to Ram Niwas etc. Regarding this, matter FIR No.86 dated 14.11.2009 was registered at Police Station Rohrai under Sections 148, 149, 323, 506 Indian Penal Code, 1860. It was further stated in the Kalendra that as both the parties were claiming their possession over the disputed land, so there was apprehension of breach of peace between the parties. Prayer was made for appointment of receiver. Vide order dated 11.12.2009, property was attached by Learned Executive Magistrate, Rewari and Naib Tehsildar was appointed as receiver. It is contended by the petitioners that later on proceedings under Section 145 Cr.P.C. have been dropped in favour of the contesting respondents and the receiver has been directed to hand over the possession of the disputed land to the contesting respondents vide order dated 29.05.2012, which order has been upheld in revision by Learned Additional Sessions Judge, Rewari on 29.07.2016.

3. It is further the case of petitioners that they (petitioners) had filed a civil suit for declaration and permanent injunction on 02.03.2007 claiming to be co-owners in possession of the land in dispute and alleging that they had not executed any sale deed or General Power of Attorney. However said suit was dismissed on 13.06.2011 by Learned Civil Judge, Rewari. Appeal filed by them was dismissed on 26.08.2014. However, Regular Second Appeal No.1013 of 2015 and Regular Second Appeal No.1245 of 2015 filed by two of the petitioners are pending before this High Court.

CRM-M-35509-2016 (O&M)

4. It is contended by Ld. Counsel for the petitioners that Courts below failed to take into account the fact that in the suit for injunction filed by the petitioners, status quo had been granted and therefore, till the pendency of the suit before the Civil Court, proceedings under Section 145 Cr.P.C. could not be maintained. The Courts below also failed to take into account the revenue record revealing the petitioners to be in possession of the land in dispute.

5. On notice of motion, contesting respondents appeared and opposed the petition. They claim to be owner in possession of the land in dispute and that civil litigation filed by the petitioners has already been decided against them and even the Regular Second Appeals filed by the petitioners has been dismissed by the High Court.

6. Having considered submissions of both the sides and perusing the record, I find no merit in this petition. As there was apprehension of breach of peace, Station House Officer concerned had filed Kalendra under Section 145 Cr.P.C., wherein receiver was appointed, who took the possession and started depositing the amount of the value of crop in the official treasury after getting the land cultivated and harvested. Therefore, petitioners cannot claim to be in possession of the land in dispute. After the proceedings in the Kalendra were dropped, receiver was directed to hand over possession to the respondents. The civil suit filed by the petitioners has already been dismissed by the First Appellate Court. Even Regular Second Appeal No.1013 of 2015 and Regular Second Appeal No.1245 of 2015 have been dismissed in default for want of prosecution vide order dated 26.09.2018.

CRM-M-35509-2016 (O&M)

7. Although counsel for the petitioners has placed on record copy of the orders dated 05.07.2022 passed in CM-15955-C-2018 in RSA No.1013-2015; and copy of order dated 12.01.2023 passed in CM-3055-C-2015 in RSA-1013-2015 (O&M) and RSA-1245-2015 (O&M) in order to contend that RSAs in question have been restored but these orders do not reveal that any stay has been granted in favour of the petitioners. The proceedings in the civil suit having culminated against the petitioners; proceedings under Section 145 Cr.P.C. having been dropped with direction to the receiver to hand over the possession to the respondents, nothing is left so as to continue the proceedings in the Kalendra or to set aside the impugned order passed by the Executive Magistrate or by the Learned Additional Sessions Judge. As suit had been dismissed, so status quo order passed therein, if any, merged into the final judgment & decree.
8. As such, finding no merit in the present petition, same is hereby dismissed.

February 03, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No