

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

the petitioner. Learned counsel further contends that the petitioner approached the Executive Magistrate-cum-District Revenue Officer and the proceedings under Section 145 Cr.P.C. were ordered to be initiated. She further contends that vide order dated 02.09.2021 (Annexure P-1), passed by the Executive Magistrate-cum-District Revenue Officer, Narnaul, the Block Development and Panchayat Officer, Narnaul was appointed as a receiver and he was directed to get the illegal encroachments removed from the spot. Respondent No.1 filed a revision before the Sessions Court and vide the impugned order dated 12.10.2023 (Annexure P-2), the Sessions Judge, Narnaul had set aside the order passed by the Executive Magistrate-cum-District Revenue Officer and the Executive Magistrate-cum-District Revenue Officer was directed to pass a fresh order in accordance with law. Learned counsel further contends that the Sessions Judge, Narnaul had completely over looked the mandatory provisions of Section 145/146 Cr.P.C. and the impugned order is legally unsustainable. She further contends that in fact, the petitioner just wanted a passage to his own land and nothing more than that and he had been running from pillar to post for the said purpose. Even the private respondents had beaten him up and did not allow him to enter the land. Still further, the order passed by the Executive Magistrate-cum-District Revenue Officer was wrongly challenged before the Sessions Court and the same is liable to be upheld by this Court.

3. I have heard learned counsel for the parties and perused the record.
4. While allowing the revision petition, the Court of Sessions Judge, Narnaul recorded the following findings:-

“It is undisputed fact that a civil suit is pending in civil court wherein the status quo has been granted. It is also

not in dispute that a civil miscellaneous appeal has been filed by petitioner-respondent No.1 Sube Singh @ Shiv Lal against the said judgment which is pending in the court of learned Additional District & Sessions Judge. Once the civil suit is still pending and the interim order regarding status quo qua possession has already been granted, in that case proceedings under Section 145 Cr.P.C. shall not be maintainable. In case titled as Zoravar Singh (Supra), our own Hon'ble High Court has held that where there is dispute as to possession of land and the civil suit was already pending between the parties in which parties were directed to maintain status quo regarding possession, then the proceedings under Section 145 Cr.P.C. is not maintainable and the order of SDM was set aside. In case titled as Ram Dia (Supra), our Hon'ble High Court has upheld the Order of Sessions Judge quashing proceedings under Section 145 Cr.P.C. In yet another case titled as Chet Ram (Supra), our Hon'ble High Court has held that where Civil Court already seized of the matter and temporary injunction had already been issued, the Criminal Court not justified to have entertained proceedings under Section 145 of the Code especially when no untoward incident took place. In case titled as Sheo Badan Singh (Supra), it was held that where the dispute as to immovable property was pending before Civil Court, then initiation of proceeding under Section 145 is not warranted.”

5. Even this Court finds no reason to deviate from the findings recorded by the Sessions Judge, Narnaul in the impugned order 12.10.2023 (Annexure P-2). The Sessions Judge, Narnaul has rightly observed that once it had been held that the dispute pertaining to the immoveable property was pending before the Civil Court, the initiation of the proceedings under Section

145 Cr.P.C. was not warranted. Apart from that, it is also evident that all the parties were having their respective possession over different parcels of the land, after the partition. Thus, the present petitioner had no concern with the land under the possession of the respondents. Apart from that, after setting aside the impugned order dated 02.09.2021, passed by the Executive Magistrate-cum-District Revenue Officer, Narnaul, the concerned Court has been directed to pass fresh order in accordance with law. Thus, even no prejudice has been caused to the present petitioner and the present petition is totally misconceived.

6. Accordingly, the present petition is ordered to be dismissed.
7. Pending application, if any, is also disposed off.

28.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No