



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**  
**CRIMINAL WRIT PETITION NO.909 OF 2023**

Rajesh Vijaysingh Thakur  
Aged about 46 years, Occ: Agriculturist,  
R/o Panjari Lodhi, Post Dongargaon,  
Tahsil & Dist. Nagpur.

**...PETITIONER**

**...V E R S U S...**

1. Rupesh Harichand Kamble  
Aged about 36 years, Occ: Private  
R/o Panjari Lodhi, Post Dongargaon,  
Tahsil & Dist. Nagpur.
2. Raghunath Malikarjun Dodda alias  
Raghu Anna, Aged about 45 years,  
Occ: Private Business,  
R/o C/o Mukinda Amle, At Dhothi,  
Post Dongargaon, Tahsil & Dist. Nagpur.
3. The Sub-Divisional Officer,  
Nagpur (Gramin), Dist. Nagpur.

**...RESPONDENTS**

-----  
Shri S.D. Chande, Advocate for petitioner.  
Ms M. Agrawal, Advocate for respondent nos.1 and 2.  
Shri A.G. Mate, APP for respondent no.3.  
-----

**CORAM :- M.W. CHANDWANI, J.**  
**DATE :- 08/04/2025**

**ORAL JUDGMENT:**

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the learned counsels appearing for the parties.
2. The petition challenges the order dated 09.10.2023 passed by respondent no.3 in Misc. Criminal Case No.6/2023

thereby holding that respondent no.1 is in possession of the disputed property and directing the petitioner not to interfere with the possession of respondent no.1.

3. Mr. Chande, learned counsel for the petitioner vehemently submitted that a civil suit between the petitioner and respondent nos.1 and 2 is pending vide Regular Civil Suit No.448/2023 before the learned Civil Judge, Senior Division, Nagpur. Pending the suit, respondent no.1 initiated proceedings under Section 145 of the Code of Criminal Procedure (for short “CrPC”) wherein the Sub-Divisional Officer, Nagpur (SDO) passed the impugned order inspite of pendency of the parallel proceedings before the civil Court which is competent to decide the title of the property. According to him, the SDO erroneously held that the suit has been disposed of by the civil Court. According to him, if the civil Court is seized with the matter, the SDO cannot proceed under Section 145 of the CrPC. To buttress his submission, he seeks to rely on the decision of ***Amresh Tiwari Vs. Lalta Prasad Dubey and another***<sup>1</sup>. According to him, the impugned judgment does not stand and hence, it requires to be set aside.

---

<sup>1</sup> (2000) 4 SCC 440

4. Conversely, Ms Agrawal, learned counsel appearing on behalf of respondent nos.1 and 2 vehemently objected to the submission made by the petitioner. The contention is that the proceedings before the SDO are in respect of keeping peace and tranquillity in the society. According to her, even if the suit is pending, to maintain peace, the SDO is empowered under Section 145 of the CrPC to pass an appropriate order and can also proceed to enquire in respect of possession of the disputed property. To buttress her submission, she seeks to rely on the case of *Jhummamal alias Devandas Vs. State of Madhya Pradesh and others*<sup>1</sup>. According to her, just because a civil suit is pending, enquiry under Section 145 is not barred as it is intended to provide a remedy for prevention of breach arising out of disputes relating to immovable property.

5. Having heard the learned counsel for the respective parties and having gone through the impugned order and the material available on record, it transpires that a civil suit between the petitioner and respondent nos.1 and 2 is pending before the learned Civil Judge, Senior Division, Nagpur. The application for temporary injunction has been dismissed, still Civil Judge, Senior Division, Nagpur is seized with the matter. Thus, the observation

---

<sup>1</sup> (1988) 4 SCC 452

made by SDO that the civil suit has been disposed of is not factually correct.

6. Be that as it may, it is a settled principle of law that the decree of a civil Court will be binding on a criminal Court. Rather, a civil Court is competent to decide disputes related to immovable property. The adhoc provision in the form of Section 145 has been incorporated in CrPC as an exception to maintain peace in the society in cases where there is breach of peace in a dispute relating to immovable property. The purpose of this adhoc provision is to enable a speedy remedy when the parties are not in the Court of law / civil Court to adjudicate their dispute. Thus, considering the scheme envisaged under Section 145 of the CrPC, this exception does not override the decree of a civil Court. Thus, if the civil Court is seized with the matter in respect of dispute over immovable property, then the SDO who is empowered under Section 145 of the CrPC should keep his hand away for the simple reason that the parties have already approached the civil Court for adjudicating their dispute. The competent civil Court will pass the appropriate order and parties will be subject to the order passed by the civil Court. In the case of *Amresh* (supra) relied upon by the petitioner, the Supreme Court while relying on the case of ***Ram***

***Sumer Puri Mahant Vs. State of U.P.***<sup>1</sup> in para 13 has held as under:

*“13. We are unable to accept the submission that the principles laid down in Ram Sumers [(1985) 1 SCC 427] case would only apply if the civil Court has already adjudicated on the dispute regarding the property and given a finding. In our view Ram Sumers case is laying down that multiplicity of litigation should be avoided as it is not in the interest of the parties and public time would be wasted over meaningless litigation. On this principle it has been held that when possession is being examined by the civil Court and parties are in a position to approach the civil Court for adequate protection of the property during the pendency of the dispute, the parallel proceedings i.e. Section 145 proceedings should not continue.”*

7. So far as the decision of the Supreme Court in the case of *Jhummamal* (supra) relied upon by learned counsel for respondent nos.1 and 2 is concerned, it is distinguishable. Rather, after considering the decision of *Jhummamal*, the Supreme Court in the case of *Amresh* (supra) has opined that it is only in cases where civil suit is for possession or for declaration of title in respect of the same property and where reliefs regarding protection of the property concerned can be applied for and granted by the civil Court, the proceedings under Section 145 of

---

<sup>1</sup> (1985) 1 SCC 427

the CrPC in respect of the same property should not be allowed to continue. The relevant para 14 is reproduced as under.

*“14. Reliance has been placed on the case of Jhummal alias Devandas versus State of Madhya Pradesh & Ors. [1988 (4) SCC 452]. It is submitted that this authority lays down that merely because a civil suit is pending does not mean that proceedings under Section 145 Criminal Procedure Code should be set at naught. In our view this authority does not lay down any such broad proposition. In this case the proceedings under Section 145 Criminal Procedure Code had resulted in a concluded order. Thereafter the party, who had lost, filed civil proceedings. After filing the civil proceedings he prayed that the final order passed in the Section 145 proceedings be quashed. It is in that context that this Court held that merely because a civil suit had been filed did not mean that the concluded Order under Section 145 of the Criminal Procedure Code should be quashed. This is entirely a different situation. In this case the civil suit had been filed first. An Order of status quo had already been passed by the competent civil court. Thereafter Section 145 proceedings were commenced. No final order had been passed in the proceedings under Section 145. In our view on the facts of the present case the ratio laid down in Ram Sumers case (supra) fully applies. We clarify that we are not stating that in every case where a civil suit is filed, Section 145 proceedings would never lie. It is only in cases where civil suit is for possession or for declaration of title in respect of the same property and where reliefs regarding protection of the property concerned can be applied for and granted by the*

*civil court that proceedings under Section 145 should not be allowed to continue. This is because the civil court is competent to decide the question of title as well as possession between the parties and the orders of the civil Court would be binding on the Magistrate.”*

8. In view of the matter, the impugned order passed by the Sub-Divisional Officer does not stand and is required to be set aside. Accordingly, the impugned order dated 09.10.2023 passed by the Sub-Divisional Officer (Rural), Nagpur in Misc. Criminal Case No.6/2023 is quashed and set aside.

9. It is made clear that this Court has not opined with regard to the issue of possession in respect of the disputed property. It is for the civil Court who is seized with the matter to decide the issue without getting influenced by this order.

10. In the above said terms, the petition is allowed and stands disposed of.

**JUDGE**

Wagh