

2025:PHHC:033120



CRR-2203-2010 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(201)

CRR-2203-2010 (O & M)
Date of decision: 07.03.2025

Kailash Chand

.... Petitioner

V/s

State of Haryana and ors.

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Ramandeep Kaur, Advocate as Amicus Curiae,
for the petitioner.

Mr. Dharam Pal, AAG, Haryana.

Mr. Tajeshwar Singh Sullar, Advocate as Amicus Curiae,
for the respondents No.2 to 4.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been preferred against the order dated 13.07.2010 (Annexure P-6) whereby the orders dated 03.09.2004 (Annexure P-2) and order dated 19.04.2005 (Annexure P-5) passed by the Sub Divisional Judicial Magistrate, Bhiwani, have been set aside.

2. Briefly put, the prosecution is that ASI Surajbhan of Police Station City Bhiwani presented a *calandra* under Section 145 Cr.P.C. before the SDM, Bhiwani on the allegations that the first party, namely, Kailash Chand (petitioner) had filed an application to police of Police Station City Bhiwani on the allegations that he had purchased a plot from Smt. Chander Bai in the year 1973 and had constructed a residential house. The electric meter & water connect was in his name. He had also engaged Shri



Ghanshyam Chowkidar to look after the house for the last 25 years. On 06.08.2004, the Chowkidar telephonically informed him that the second party (private respondents), namely, Sikender Singh, Pawan and Dholu had forcibly and illegally entered into the house and threatened the Chowkidar to vacate the same otherwise he would be killed.

The petitioner (first party) accordingly rushed to the house and found that the respondents No.2 to 4 (second party) had forcibly entered in possession of the house thereby throwing out his articles. Party No.2 (respondents No.2 to 4, namely, Sikander Singh, Pawan and Dholu) had affixed his name plate on the house thereby removing the name plate of the petitioner (party No.1). On the complaint of the petitioner (first party), FIR No.27 on 07.08.2004 under Sections 452, 323, 506 IPC was registered in which the respondents No.2 to 4 (second party) was arrested.

3. The Sub Divisional Judicial Magistrate, Bhiwani, appointed the Executive Officer, Municipal Committee, Bhiwani as a Receiver on 03.09.2004 to take over the possession of the property in question vide order dated 03.09.2004 (Annexure P-2).

4. Thereafter, in execution of the order dated 03.09.2004 (Annexure P-2), vide order dated 30.09.2004 (Annexure P-3), the Sub Divisional Magistrate, Bhiwani ordered that since both the parties were showing their right, there was apprehension of breach of peace, therefore, the house/property in question was ordered to be auctioned under Section 145 Cr.P.C. and till the final decision with regard to the ownership by the Civil Court, the Executive Officer, Municipal Council, Bhiwani was appointed as a Receiver.



5. In an execution application (Annexure P-4) of the aforementioned order dated 30.09.2004 (Annexure P-3), the house was locked and possession was taken over by the Executive Officer, Municipal Committee, Bhiwani on 01.10.2004.

6. The private respondents again took the possession by breaking the lock for which the petitioner again filed an application for execution of order dated 30.09.2004 (Annexure P-3) stating that the respondents had broken the lock and taken over the possession of the house again. Consequent, thereto, FIR No.86 under Sections 448, 506 IPC Police Station City Bhiwani came to be registered on 05.03.2005 and the house was sealed with the help of local police vide a report dated 19.04.2005 (Annexure P-5).

7. The aforementioned orders dated 03.09.2004 (Annexure P-2) and 19.04.2005 (Annexure P-5) were challenged before the Court of the Additional Sessions Judge-III, Bhiwani. The said orders were set aside vide order dated 13.07.2010 (Annexure P-6).

8. It is this order (Annexure P-6) which is under challenge in the present petition.

9. The learned Amicus Curiae for the petitioner contends that the orders dated 03.09.2004 (Annexure P-2) and 19.04.2005 (Annexure P-5) were passed in accordance with law. The passing of a single order under Section 145 Cr.P.C. is a mere irregularity and not an illegality which would vitiate the entire proceedings. Therefore, the impugned order dated 13.07.2010 (Annexure P-6) is liable to be set aside.

10. The learned counsel for the State contends that as more than 20 years had elapsed since the orders dated 03.09.2004 (Annexure P-2) and 19.04.2005 (Annexure P-5) had been passed, the parties ought to have



availed/pursued their appropriate civil/criminal remedies in accordance with law.

11. The learned Amicus Curiae for the respondents No.2 to 4, on the other hand, contends that the orders referred to were passed more than 20 years ago. The proceedings under Section 145/146 Cr.P.C. are temporary in nature for an emergent situation of the possible breach of peace. They are subject to appropriate civil and criminal proceedings which either party may initiate. Therefore, the present revision petition is liable to be dismissed.

12. I have heard the learned counsel for the parties.

13. The dispute between the parties pertains to the year 2004. The orders Annexure P-2 and Annexure P-5 respectively were passed in the year 2004 and 2005. The impugned order dated 13.07.2010 (Annexure P-6) was also passed in the year 2010. At this stage, the question of pursuing the proceedings under Section 145/146 Cr.P.C. would not arise. The parties may initiate/pursue their appropriate remedies civil and criminal proceedings in accordance with law.

14. In view of the above discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

March 07, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No