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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-697-2025 (O&M)
Date of decision: 10.01.2025

Anita

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of the order dated 13.11.2024 (Annexure P-5) passed by learned Additional Sessions Judge, Palwal and to uphold the order dated 28.03.2024 (Annexure P-4) passed by learned Sub Divisional Magistrate-cum-Collector, Palwal.
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is co-sharer of 02 acres of agricultural land and the dispute arose between the private respondents, who are claiming themselves as owners of



specific killa number of a joint property. The property in dispute has not been partitioned which was purchased by virtue of sale deed dated 25.05.2023. The private respondents have trespassed into the property owned by the petitioner and inflicted injuries and in this regard, an FIR No.702 dated 11.10.2023 under Sections 148, 149, 323, 506 of the Indian Penal Code, 1860, was registered at Police Station City Palwal (Annexure P-2) and thereafter, kalandra under Section 145 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 164 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] was presented by the jurisdictional police authorities keeping in view the eminent danger to the breach of peace and learned Sub Divisional Magistrate-cum-Collector, Palwal passed a well reasoned order on 28.03.2024 (Annexure P-4), in order to avoid recurrence of breach of peace and harmony at the spot and also to avoid bloodshed. It is further contended that learned Additional Sessions Judge, Palwal fell into grave error by relying upon the civil suit filed by the private respondents. The petitioner has already filed a revision petition before this Court challenging the injunction order passed by the Civil Court under Order 39 Rules 1 & 2 of Code of Civil Procedure, 1908, in which notice of motion has been issued and the said petition is pending for 18.02.2025.

3. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, this Court finds no force in the



arguments advanced on behalf of the petitioner.

4. It is admitted fact that the land in dispute is still joint between the parties and the petitioner has purchased a specific killa number in the joint khata and further, the private respondents have already filed a civil suit for declaration and permanent injunction on 17.10.2023, whereas the kalandra under Section 145 of Cr.P.C. (*now Section 164 of BNSS*) was filed later on i.e. on 24.10.2023 and thus, the Civil Court is already seized of the dispute between the parties regarding possession etc. Therefore, initiation of proceedings under Section 145 of Cr.P.C. (*now Section 164 of BNSS*) or the order of attachment or appointment of receiver would be clearly an abuse of process of law. It would be for the Civil Court to decide the issue of possession, as such, learned Additional Sessions Judge, Palwal has passed a well reasoned order. Reliance in this regard can be placed upon ***Chajju Ram Vs. SDM Mohindergarh, Crl. Misc. No.12204-M-1996***, decided on 16.01.19997 and ***Karam Singh Vs. Sub Divisional Magistrate, Zira, Crl. Misc. No.8273-M-2020***, decided on 13.03.2021. Whether the proceedings under Section 145 of Cr.P.C. (*now Section 164 of BNSS*) can be initiated with respect to the property in dispute, when it is still joint property and civil suit qua the same property has been filed prior in time, before issuance of kalandra, this Court feels no hesitation to hold that once the civil litigation is pending with regard to a property where the question of joint ownership is



involved, proceedings under Section 145 of Cr.P.C. (*now Section 164 of BNSS*) cannot be initiated.

5. Keeping in view the aforesaid facts and circumstances of the case, this Court finds no illegality or perversity in the impugned order dated 13.11.2024 (Annexure P-5) passed by learned Additional Sessions Judge, Palwal. Accordingly, the present petition is dismissed being devoid of any merit.

[HARPREET SINGH BRAR]
JUDGE

10.01.2025
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No