

CRM-M-23910-2024 (O & M)

2026:PHHC:071828



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(293)

CRM-M-23910-2024 (O & M)

Reserved on :07.05.2026

Date of Pronouncement:08.05.2026

Date of Uploading:08.05.2026

Sandeep and ors.

..... Petitioners

V/s

Prithivi and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sourabh Sheoran, Advocate,
for the petitioners.

Mr. Mayank Sharma, Advocate,
for the respondents.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for the quashing of the impugned order dated 28.11.2023 (Annexure P-1) passed by the Sub Divisional Magistrate, Badhra whereby the application filed by the respondents No.1 to 5 under Sections 145 and 146 Cr.P.C. has been allowed and land comprised in Khewat No.44//23, Khatoni Nos.50 & 51, Kite 50, measuring 194 Kanal 17 Marla has been attached and Tehsildar, Badhra has been appointed as Receiver and the impugned order dated 16.04.2024 (Annexure P-3) passed by the Additional Sessions Judge, Charkhi Dadri, whereby the revision petition filed by the petitioners has been dismissed.



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2. The brief facts giving rise to this petition are that the respondents/complainants (hereinafter known as 'the respondents') filed an application under Sections 145 and 146 of the Code of Criminal Procedure with the averment that they and petitioners were Biswedars in the land having Khewat No.44//23, Khatoni Nos.50 and 51 total land measuring 194 Kanals 17 Marlas in village Kiskindha Tehsil Badhra, District Charkhi Dadri as per Jamabandi for the year 2021-22. The petitioners tried to grab the share of the respondents and on 09.07.2023, when the respondents were taking care of their crops of cotton and millet then the petitioners came there and threatened and abused them. They tried to disturb the peace and were hell bent to quarrel with them and threatened that they would not allow them to come to their fields and would take possession of all the land. Whenever the respondents tried to go to their agricultural fields then the petitioners would start quarreling with them. Previously also, the respondents had given a complaint in this regard to S.P., Charkhi Dadri, on which, a *kalandra* under Sections 107/150 of Cr.P.C. was forwarded against them and police had reached the conclusion that due to land dispute, the possibility of quarreling between the parties in future, could not be ruled out. On 06.08.2023, the petitioners again threatened the respondents and wanted to quarrel with them whenever they (the respondents) tried to enter into their agricultural fields, and thus, a prayer was made to summon the petitioners and to take possession of the land by appointing a Receiver as there was apprehension



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3. The petitioners appeared before the Sub Divisional Magistrate, Badhra and filed a detailed reply, wherein, they took plea that there was no dispute between the parties regarding the land. The land had already been orally partitioned between the parties and they were in possession of their respective shares. Some of the petitioners were also shown in cultivating possession of Khasra Nos.16//7, 8, 9/1, 12/2, 16//13,14/1 and 15/1 and that the application had been filed by the respondents with a false and frivolous version and in fact, there was no dispute qua land between the parties. The case of partition was also pending before Assistant Collector IInd Grade, Badhra. It was further averred that under the garb of the application under Sections 145 and 146 of Cr.P.C., the respondents wanted to take possession of land of the petitioners. On the report filed by the police, there was no averment that there was apprehension of breach of peace and thus, Sections 145 and 146 were not attracted.

4. During the pendency of the application under Section 145 Cr.P.C, a fresh report was called for by the Sub Divisional Magistrate, Badhra from the SHO Police Station Badhra. After going through the record, the fresh report of the SHO concerned and hearing the parties, the Sub Divisional Magistrate, Badhra ordered the attachment of the disputed agricultural land and appointed Tehsildar, Badhra as a Receiver to take possession of the said land till partition by the Revenue Authorities vide impugned order dated 28.11.2023 (Annexure P-1).



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5. The revision petition filed by the petitioners against the order dated 28.11.2023 (Annexure P-1) passed by the Sub Division Magistrate, Badhra came to be dismissed by the Court of Additional Sessions Judge, Charkhi Dadri vide judgment dated 16.04.2024 (Annexure P-3).

6. It is the aforementioned orders which are under challenge in the present petition.

7. The learned counsel for the petitioners contends that the impugned order (Annexure P-1) and the impugned judgment (Annexure P-3) are based on conjectures and surmises. No dispute exists between the petitioners and the respondents. An oral partition had taken place much earlier and both the sides are in settled possession. Even otherwise, once the Civil proceedings are pending, the proceedings under Section 145 and 146 Cr.P.C. cannot be resorted to and the parties can approach the Civil Court for appropriate orders. Reliance is placed on '**Ram Sumer Puri Mahant versus State of U.P. and others, 1985(1) RCR(Criminal) 278, Amresh Tiwari versus Lalta Prasad Dubey and another 2000(2) RCR(Criminal) 614 and Mohd. Abid & Ors. versus Ravi Naresh & Ors. 2023(1) Apex Court Judgments (SC) 435**'. He, therefore, prays that the impugned order (Annexure P-1) and the impugned judgment (Annexure P-3) be quashed.

8. The learned counsel for the respondents, on the other hand, contends that the impugned order (Annexure P-1) and the impugned judgment (Annexure P-3) are well-reasoned and are based on proper

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and 146 Cr.P.C. was filed on 25.09.2023. The order of attachment passed by the Sub Divisional Magistrate, Badhra, Charkhi Dadri is dated 28.11.2023 (Annexure P-1). The civil suit for permanent injunction was filed by the petitioners on 20.11.2023 and even notice had not been served upon the respondents by the time the order dated 28.11.2023 (Annexure P-1) had been passed. The status quo order of the Civil Court is dated 19.12.2023 (Annexure P-4) after the passing of the impugned order dated 28.11.2023 (Annexure P-1). In fact, the petitioners did not inform the Sub Divisional Magistrate, Badhra of the pendency of the civil proceedings when the impugned order (Annexure P-1) was passed on 28.11.2023. On the one hand, it is the contention of the petitioners that an oral partition had taken place but on the other, it is the pleaded case of the petitioners that partition proceedings are pending before the Assistant Collector IInd Grade. The petitioners have admitted that there is a dispute between the parties and the proceedings under Section 107/151 Cr.P.C. were initiated. Even in the plaint of the civil suit for permanent injunction instituted by the petitioners, it is pleaded that there is a dispute regarding possession and that they apprehended forcible dispossession. Once the petitioners themselves admit the factum of a dispute regarding the possession of the land then the challenge to the impugned order and the impugned judgment (Annexures P-1 and P-3 respectively) does not lie and mere pendency of civil proceedings would not operate as a bar to the initiation of proceedings under Sections



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

10. When the respondents instituted proceedings under Sections 145/146 Cr.P.C. on 25.09.2023, no civil proceedings were pending in any Court. When the impugned order (Annexure P-1) appointing the Tehsildar, Badhra as Receiver was passed on 28.11.2023, it was not brought to the notice of the Sub Divisional Magistrate, Badhra, by the petitioners that they had filed a civil suit for permanent injunction on 20.11.2023. The status quo order was passed on 19.12.2023 (Annexure P-4) after the Receiver had already been appointed on 28.11.2023. Therefore, once civil proceedings had been initiated after the proceedings under Section 145/146 Cr.P.C. had been initiated and had not been brought to the notice of the Sub Divisional Magistrate, Badhra, it cannot be contended that because civil proceedings were pending, therefore, the proceedings under Sections 145 and 146 Cr.P.C. cannot be initiated. In fact, it appears that the civil suit was filed only to frustrate the proceedings under Section 145/146 Cr.P.C. The judgments in *'Ram Sumer Puri Mahant (supra), Amresh Tiwari (supra) and Mohd. Abid & Ors. (supra)* would not apply to the facts of the present case because in all the aforementioned judgments, civil proceedings were pending and only subsequently, an application was made under Section 145 Cr.P.C.

11. Further, it is the pleaded case of the petitioners that a dispute exists between the parties regarding possession of land. The relevant extract of the plaint in the civil suit for permanent injunction is reproduced



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5. That now the intentions of defendants have become mala fide and they have entertained mala fide intention. The defendants No. 1 to 7 with the collusion of each other wants to take forcible possession of the land, whereas they have no right to do so.

6. That it is also worth to mention here that an application for partition in respect of suit land is also pending before Ld. Asst. Collector 2nd Grade, Badhra for 05-12-2023.

7. That the defendants for ulterior motive filed a false complaint against the plaintiffs in police station Badhra and they with the collusion of police got lodged a false Kalandra under section 107/151 Cr.P.C. and also filed a false complaint/application under section 145 Cr.P.C. before Sub Divisional Magistrate, Badhra, which is pending for adjudication.

8. That two days ago, the defendants with the collusion of each other tried to dispossess the plaintiffs and proforma defendant forcible from the suit land but plaintiffs restrained them. Upon which, they threatened to come back after arranging force and dispossess the plaintiffs from the suit land and to change the nature of the suit land. Hence cause of action in accruing the plaintiff against defendants and necessity of present suit.

12. The observations made by the Revisional Court while dismissing the criminal revision petition filed by the petitioners vide impugned judgment dated 16.04.2024 (Annexure P-3) is quite relevant and is reproduced hereinbelow:-

9. As per revenue record i.e. Jamabandi for the year 2012-13, both the parties are co-sharers over the disputed agricultural land, which is still joint and has not been partitioned till date. The partition proceedings are stated to be pending before



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Revenue Authorities. The revisionists have taken inconsistent plea in their written statement as on the one hand, they pleaded that oral partition has already been taken place between the parties qua disputed land while on the other hand, they pleaded that partition proceedings are pending before AC IInd Grade, Badhra. They further pleaded that respondents under the garb of application under Sections 145 and 146 of Cr.P.C, want to grab their land. Thus, as per own version of the revisionists, there is dispute between them and respondents qua agricultural land, which falsifies the arguments of learned counsel for the revisionists that there is no dispute between the parties qua disputed land. This fact is further supported from the fact that previously a Calandra under Sections 107/150 of Cr.P.C. is forwarded by SHO P. S. Badhra against both the parties. Even fresh report filed by SHO concerned shows that still there is apprehension of breach of peace due to land dispute between the parties. The documents filed by the revisionists show that Civil Court passed the order to maintain status quo on 19.12.2023 but impugned order was passed by learned S.D.M. on 28.11.2023. Thus, order of Civil Court was not in existence at the time of passing the impugned order nor pendency of civil case was brought to the knowledge of learned S.D.M. Thus, mere pendency of Civil Court case between the parties does not prohibit the learned S.D.M to pass orders under Sections 145 and 146 Cr.P.C., if circumstances warranted. Learned counsel for the revisionists failed to convince this Court as which provision of Cr.P.C. is not complied with by learned S.D.M while passing impugned order. Thus, evidence taken on record by learned S.D.M proves that there is apprehension of breach of peace between the parties over the land in dispute.



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Consequently, learned Sub Divisional Magistrate, Badhra has rightly ordered for attachment of the disputed agricultural land and appointed Receiver till partition of the said land. I do not find any reason to differ with the findings of the learned S.D.M in this regard.

13. In view of the aforementioned discussion, I find no fault in the impugned order dated 28.11.2023 (Annexure P-1) passed by the Sub Divisional Magistrate, Badhra and the impugned judgment dated 16.04.2024 (Annexure P-3) passed by the Additional Sessions Judge, Charkhi Dadri. Therefore, the present petition stands dismissed.

14. The pending application(s), if any, shall stand disposed of accordingly.

May 08, 2026
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No