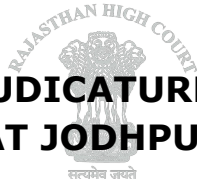


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Miscellaneous (Petition) No. 1787/2021

CNR: RJHC010198522021

URN: CRLMP / 4022U / 2021

Dalaram S/o Pusaram, Aged About 51 Years, Bhadwo Ki Dhani
Khinwsar Police Thana Khinwsar, District Nagaur.

----Petitioner

Versus

1. Tulsi W/o Shri Achalaram, Bhadwo Ki Dhani Khinwsar
Police Thana Khinwsar, District Nagaur.
2. Dali W/o Shri Pema Ram, Khinwsar Police Thana
Khinwsar, District Nagaur.
3. State Of Rajasthan, Through S.h.o., Police Thana
Khinwsar, District Nagaur.

----Respondents

For Petitioner(s)	:	Mr. Vikram Singh Choudhary
For Respondent(s)	:	Mr. Mukesh Mehriya Mr. Vikram Singh Rajpurohit, P.P. with Mr. Ravindra Singh Bhati, AGA

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

07/07/2026

1. Present criminal miscellaneous petition under Section 482 Cr.P.C. has been filed challenging the order dated 30.01.2021, passed by the Court of Additional Session Judge No.1, Nagaur (hereinafter referred to as the 'Revisional Court'), whereby the learned Revisional Court allowed the revision petition filed on behalf of the respondents and set aside the order dated 10.09.2018, passed by the Court of Sub Divisional Magistrate, Khivisar, District Nagaur (hereinafter referred to as the 'trial

Court'), in a proceeding initiated under Section 145 and 146 Cr.P.C.

2. Learned counsel for the petitioner submits that, in respect of the disputed land, the petitioner had instituted a revenue suit under Sections 53, 88 and 188 of the Rajasthan Tenancy Act, registered as Revenue Suit No. 938/2008 (Dala Ram Vs. Sona Ram). An application under Section 212 of the Rajasthan Land Revenue Act was also preferred therein, and the competent Revenue Court, vide order dated 29.07.2008, granted interim protection in favour of the petitioner.

3. It was contended that ever since passing of the said order, the petitioner has remained in possession of the disputed land. Even during the proceedings initiated under Sections 145 and 146 Cr.P.C., the possession of the petitioner was clearly reported. Learned counsel further submitted that although the respondents have been claimed their rights and title over the disputed land, however, the petitioner's possession has continuously remained protected by the interim order passed by the competent Revenue Court.

4. It was further submitted that an order of attachment was initially passed on 22.12.2015. However, vide order dated 11.01.2017, the learned Revisional Court set aside the order of attachment and restored possession to the petitioner. Thereafter, while deciding the proceedings under Sections 145 and 146 Cr.P.C., the learned Sub Divisional Magistrate vide its order dated 10.09.2018, restrained the respondents from interfering with the petitioner's possession till the time the petitioner was not evicted with due process of law.

5. Aggrieved thereby, the respondents preferred a revision petition, which was allowed by the learned Revisional Court vide the impugned order dated 30.01.2021, whereby the order dated 10.09.2018 was set aside on the ground that since a revenue suit concerning the same property was already pending and an interim order protecting the petitioner's possession was in operation, such an order for protecting petitioner's possession was not justified.

6. The impugned order dated 30.01.2021 has been challenged in the present criminal misc. petition.

7. On perusal of the record, this Court finds that no interim order has been passed in favour of the petitioner in present criminal misc. petition.

8. During the course of arguments, learned counsel for the parties fairly submit that the petitioner continues to remain in possession of the disputed land under the protection of the interim order dated 10.09.2018 and that, despite the impugned order dated 30.01.2021 passed by learned Revisional Court, no incident giving rise to any apprehension of breach of peace has occurred.

9. Learned counsel for the respondents also submits that respondents have no objection if the proceedings under Sections 145 and 146 Cr.P.C. are quashed and set aside, as no apprehension of breach of peace exists as on date.

10. This Court is of the considered opinion that once proceedings regarding the title and possession of the property are already pending before the competent Court and an interim order protecting possession is operating in favour of the petitioner, invocation of the jurisdiction under Sections 145 and 146 Cr.P.C. was not warranted.

11. It is found that the learned Revisional Court in an earlier round of the same proceedings has already set aside the order of attachment vide order dated 11.01.2017, and when an interim order protecting possession of the petitioner being passed by the competent Court, there is no justification with the Sub Divisional Magistrate to pass a fresh order restraining the respondents from interfering with the petitioner's possession.

12. Thus, this Court finds no illegality or perversity in the impugned order dated 30.01.2021 passed by the learned Revisional Court setting aside the order dated 10.09.2018.

13. Moreover, in view of the categorical statements made by learned counsel for both parties that no apprehension of breach of peace exists as on date, continuation of the proceedings under Sections 145 and 146 Cr.P.C. would amount to an abuse of the process of law.

14. Consequently, the present criminal miscellaneous petition is **dismissed**. The impugned order dated 30.01.2021 passed by the learned Revisional Court is upheld.

15. It is, however, clarified that the competent Court either Civil or Revenue shall proceed in accordance with law and pass appropriate order regarding possession, khatedari rights and ownership of the disputed property, and such adjudication shall be binding upon the parties.

16. It is made clear that in the event of any fresh situation giving rise to an apprehension of breach arises in future, it shall be open for the parties to initiate appropriate preventive proceedings in accordance with law under the relevant provisions of the Code of Criminal Procedure/B.N.S.S., 2023.

17. It is also made clear that nothing contained in this order shall preclude the competent authorities from initiating appropriate proceedings, if so warranted, for the prevention of breach of peace under Sections 145 and 146 of the Code of Criminal Procedure, 1973, read with Section 137 of the Bharatiya Nyaya Sanhita, 2023, in accordance with law.

(SANJEET PUROHIT),J

169/A.Arora/-