
(1993) 07 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 2037-M of 1993

Dera Baba Ram Chander Breast Mam Swami Shankar Gior
Chela Baba Rudar Gir

APPELLANT

Vs

State of Haryana and ors.

RESPONDENT

Date of Decision : 09-07-1993

Acts Referred:

Citation : (1993) 2 CurLJ 369 : (1993) 3 RCR(Criminal) 500

Hon'ble Judges : J.B.Garg, J

Advocate : K.C. Rajput, Rajinder Goel, C.B. Goel, Advocates for appearing Parties

Judgement

J.B. Garg, J.

1. Dera Baba Ram Chander through Swami Shanker Gir Chela Baba Ruder Gir, resident of village Takhana, District Karnal has moved the present petition under Section 482 of the Code of Criminal Procedure challenging the order dated 13121992 of the Executive Magistrate, Karnal passed under Section 145 of the Code of Criminal Procedure on the report Annexure PI which was sent by the S.H.O., Police Station, Butana.

2. Briefly, the petitioner has alleged that the agricultural land situated in villages Takhana and Padhana in District Karnal had been in cultivating possession of Swami Shanker Gir and continues as such and the proceedings initiated by the S.H.O. of Police Station, Butana through Annexure PI were bad in law.

3. It has been specifically averred that several respondents of the village such as Bala, Mam Chand, Sudershan, Phoola, Dayala Ram and Risala filed as many as six civil suits enumerated in Para 4 of the petition and that all the suits were dismissed because the plaintiffs did not pursue those suits when the applications for temporary injunction were dismissed by the Civil Court by a speaking order. The learned counsel for the petitioner has placed on record certified copies of judgments of several civil suits where the applications for temporary injection

were dismissed and ultimately the civil suits were dismissed P3 as withdrawn. This question of fact has not been controverted during the course of arguments by the learned counsel for the respondents.

4. A copy of the Khasra girdawri placed on record itself shows that undisputedly till Rabi 1992 Shanker Gir had been shown in cultivating possession of the land in question. The subsequent proceedings for correction of Khasra girdawri should not be considered important for the purpose of deciding the present petition. The learned counsel for the petitioner has also referred to the report of Local Commissioner dated 29/1/1988 where the revenue official found that labourers of Shanker Gir were working on the land in question. If this was the position, the learned Executive Magistrate, Karnal was not justified in ordering attachment of the land in question. Thus, the present petition is accepted and the impugned order is set aside and the proceedings emanating therefrom are hereby quashed.