
(1968) 02 AHC CK 0017
In the Allahabad High Court
Case No : Criminal Revision No. 2286 of 1966

Govind Ram

APPELLANT

Vs

Lahori and others

RESPONDENT

Date of Decision : 05-02-1968

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145(3)

Citation : (1968) 38 AWR 447

Hon'ble Judges : H.G.P. Tripathi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

H.G.P. Tripathi, J.—Proceedings u/s 145 Code of Criminal Procedure were initiated on the application of the Applicant who made three persons as opposite parties. The police had reported that the property in dispute had been transferred in favour of Rajesh Kumar and Nirbhai Kumar two minors. It appears that this fact was not noticed by the Magistrate due to inadvertence and he passed a preliminary order on the basis of the report of the police attaching the property and asking only the Applicant and the opposite parties minus the two minors to file their written statements. Subsequently the two minor vendees filed applications for being impleaded as parties to the proceedings. The learned Magistrate was of opinion that as the Applicant Govind Ram was fully aware of the fact of the execution of the transfer deed by Mool Chand, one of the opposite parties, in favour of the minors as admitted by him in his written statement it was his duty to have impleaded the two transferee minors as necessary parties. Accordingly he allowed the application and directed the minors to be impleaded as parties more so because they did not claim any fresh proceedings. This revision is directed against the order of the Magistrate.

2. I have heard Learned Counsel for the Applicant. I am unable to understand how the interest of the Applicant will be prejudiced by making the minors as parties specially when there will be no fresh proceedings.

3. Clause 3 of Section 145 Code of Criminal Procedure makes it incumbent on the court to have at least one copy of its preliminary order published by being affixed to some conspicuous place at or near the subject of the dispute. In my opinion the only intention of this section was that persons who are not parties to the preliminary order but are interested in the subject matter of the dispute may receive a knowledge of the aforesaid order and may thereafter come to the court and have their say.

Clause 5 of Section 145 Code of Criminal Procedure reads as under:

Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed....

4. It is, therefore, obvious that even a person who is not a party to the preliminary order but is interested in any manner in the subject matter of the dispute, can come and show to the court that the alleged dispute between the parties to the preliminary order does not exist in fact. That being so, there appears no reason why a person who is interested in the subject matter of the dispute be barred from being impleaded as a party to the proceedings.

5. There is no force in this revision and it is dismissed. The stay order is vacated. The record of the case should be sent back immediately to the court below for disposal in accordance with law.