
(1987) 11 P&H CK 0064

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 4667-M of 1987

Gurdial Singh and anr.

APPELLANT

Vs

State of Punjab and ors.

RESPONDENT

Date of Decision : 10-11-1987

Acts Referred:

Citation : (1988) 1 AICLR 169 : (1988) 1 RCR(Criminal) 168

Hon'ble Judges : S.S.Sodhi, J

Advocate : S.P. Gupta, R.S. Cheema, Advocates for appearing Parties

Judgement

S.S. Sodhi, J. (Oral)

1. The challenge here is to proceedings under Section 145 of the Code of Criminal Procedure. These proceedings are clearly misconceived in the face of the order of the Additional Senior Sub Judge, Muktsar, of March 30, 1987, restraining the respondents from interfering with the possession of the petitioners over the land in dispute.

2. It was sought to be contended by the counsel for the respondent that the Civil Court had wrongly held the petitioners to be in possession of the land when the respondents were, in fact, in possession and he referred in this behalf to the order passed by the Assistant Collector in proceedings under Section 36 of the Punjab Land Revenue Act, in pursuance of which the respondents are said to have been given possession of this land on December 18, 1986.

3. Even if it be taken that the order of the Civil Court of March 30, 1987, which was passed ex parte, was erroneous, it is not for the Criminal Court in proceedings under Section 145 of the Code of Criminal Procedure to hold this to be so. The remedy in such a situation clearly lies in getting the Civil Court to modify its own order. Until this is done, the Criminal Court must abide by the order of the Civil Court. This being the settled position in law, the proceedings under Section 145 of the Criminal Procedure Code, in the present case, are clearly unwarranted and are accordingly hereby quashed. This petition is thus

accepted.