

(1994) 07 AHC CK 0060
In the Allahabad High Court
Case No : Criminal Revision No. 1032 of 1994

Raj Bahadur and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 25-07-1994

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 145

Citation : (1994) 18 ACR 580

Hon'ble Judges : R.R.K. Trivedi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R.K. Trivedi, J.—Heard Shri Sankatha Rai, learned Counsel for the applicants and Shri M.D. Singh, learned Counsel for the opposite party No. 2.

2. This revision has been filed challenging the order dated 23rd of April, 1994 passed by the IX Additional District and Sessions Judge, Allahabad by which the revision filed by the opposite party No. 2 has been allowed and the order of the learned Magistrate dropping the proceeding u/s 145, Code of Criminal Procedure has been set aside and the learned Magistrate has been directed to proceed further with the proceedings u/s 145, Code of Criminal Procedure in accordance with law. The learned Magistrate by his order dated 29th of September, 1991 dropped the proceedings on the ground that the dispute between parties is pending before Civil Court and Revenue Court and interim orders have been passed which are operative between the parties, hence these proceedings are not necessary. The learned Sessions Judge however has disagreed with the conclusion of the learned Magistrate as the interim order passed by the revenue and civil Court for maintaining status quo, which do not and cannot effectively prevent the parties from fighting for the land and property in dispute, and there remained apprehension of breach of peace.

3. It is not disputed that the orders passed are only for maintaining status quo.

The order passed by the civil Court has already expired, as it was not extended further. The purpose and objects of the proceedings u/s 145, Code of Criminal Procedure is to maintain the law and order and to prevent the parties from taking law in their own hands which may create breach of peace. The order passed by the civil Court or revenue Court should be such which may effectively prevent either of the parties from entering into dispute for taking possession of the property by force. In case of an order for maintaining status quo position about possession remains vague and the parties are still left to get it decided by themselves by use of force or through some authority, as to which of parties was in possession of disputed property on the date the order of status quo was passed. If the proceedings u/s 145, Code of Criminal Procedure are allowed to be dropped in such state of affairs, the objects of the preventive provision contained in original procedure code may be defeated.

4. For the reasons stated above. I do not find it proper to make any interference in this revision. It is being left open to the parties to make an application before civil Court or revenue Court as the parties are advised and to pray for passing a definite order with regard to possession of the parties during pendency of the suit. If such an application is filed, same shall be considered and decided in accordance with law. After a fresh order is passed by the civil Court or revenue Court, it shall be open to the Magistrate to pass a fresh order. Subject to aforesaid observation/directions, this revision is rejected.

5. A certified copy of this order may be issued to the learned Counsel for the Petitioner within three days on payment of usual charges.