



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

S.B. Criminal Misc(Pet.) No. 4923/2024

Munshi Ram S/o Chota Ram, Aged About 69 Years, Tehsil
Maulasar, Distt. Didwana Kuchaman, Raj.

-----Petitioner

Versus

State Of Rajasthan, Through Pp

Nemaram S/o Bhagirath Ram, Aged About 26 Years,
Rikshabaas, Tehsil Maulasar, Distt. Didwana Kuchaman

Raj.

-----Respondents



For Petitioner(s) : Mr. Himanshu Choudhary.

For Respondent(s) : Mr. Vikram Sharma, PP.
Mr. V.S. Choudhary a/w Ms. Aasu
Devi.
Mr. RJ Punia.

HON'BLE MR. JUSTICE ARUN MONGA

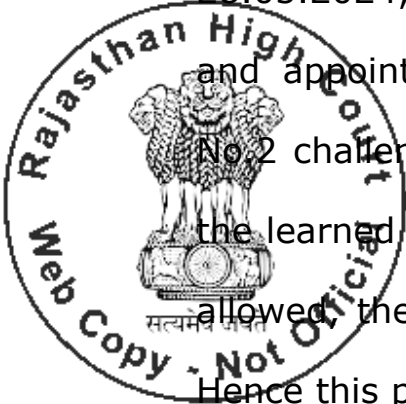
Order (Oral)

29/07/2024

1. The petitioner herein is aggrieved by an order dated 10.07.2024, passed by learned Additional Sessions Judge, Didwana in Criminal Revision Petition No. 7/2024, whereby the revision petition filed by respondent no.2 was allowed. In exercise of revisional jurisdiction, an order dated 28.05.2024, passed under Sections 145/146 Cr.P.C. by learned Sub Divisional Magistrate, Khinvsar, vide which, he had provisionally attached Khasra No. 274 of Riksabas and appointed a receiver as an interim measure, was set aside.

2. The brief facts, relevant to the controversy herein, are that the petitioner and respondent No.2 lodged complaints with the

averments that a dispute arose between the parties regarding an agricultural land situated at Khasra No.274, Rakba 1.2600, which were investigated by the SHO. Following the investigation, the SHO filed a complaint under Sections 145/146 Cr.P.C. before the learned SDM. The learned SDM, through an order dated 28.05.2024, provisionally attached Khasra No. 274 of Riksabas and appointed a receiver as an interim measure. Respondent No.2 challenged the said order by filing a revision petition before the learned Additional Sessions Judge, Didwana, Merta, which was allowed thereby setting aside the order passed by learned SDM. Hence this petition.



3. In the aforesaid backdrop, I have heard the rival contentions and gone through the case file.

4. Learned counsel for petitioner contends that order appointing receiver, being an interim arrangement, cannot be challenged by way of a criminal revision under Section 397 Cr.P.C. He contends that Section 397(2) Cr.P.C. cannot be invoked against non-conclusive decisions. Therefore, the revision petition was not maintainable and impugned order is non-est and deserves to be set aside.

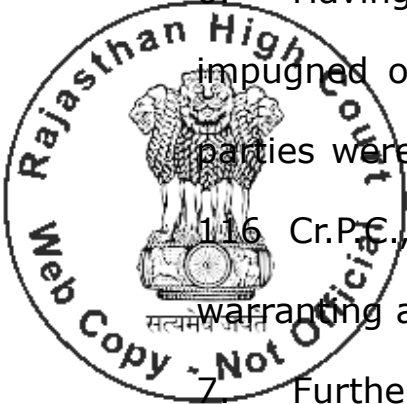
5. Having heard learned counsels and on perusal of the case file, particularly the impugned order dated 10.07.2024 passed by learned Additional Sessions Judge, I am of the view that the petition is sans any merit and does not warrant any interference. Reasons are not far to seek, inasmuch as, the elaborate discussion contained in the impugned order itself is self explanatory and needs no further elaboration. Qua the maintainability also the revision court has taken a correct view by giving cogent reasons

thereof. On merits as well, learned Additional Sessions Judge has threadbare gone into every minute aspect of the case and rendered his opinion basis of relevant case law cited in the impugned order, coupled with valid and sound reasoning. In fact, this court need not say or add anything more.

6. Having said as above, learned revisional court in the impugned order, inter alia, has also observed and held that the parties were earlier ordered to be bound under Sections 107 and 116 Cr.P.C., therefore, there was no such emergent situation warranting an order for attachment of property.

7. Furthermore, it transpires that civil proceedings are/were also sub judice as a suit was filed by the petitioner/non-revisionist in the Revenue Court. There is a dispute between the parties regarding the division of property, and the petitioner also filed a counterclaim in Suit No. 85/2023, wherein vide an interim injunction on 27.06.2023 parties have been ordered to maintain the status quo of the revenue record of Khasra No. 274 by both parties.

8. Once civil litigations regarding the property are already pending, the Magistrate under Section 145 CrPC should not delved into making findings on the civil/possession/title rights of the parties concerning the property. The purpose of Section 145 is to maintain public peace and order when there's a dispute over possession of property, and not to determine the rightful owner. Two cases civil/revenue suits had already been filed regarding the property, making it thus unnecessary for the SDM to interfere in the matter.



9. Once the civil proceedings are concededly in progress, the SDM's role is limited, and issuing orders like appointment of receiver amounts to overstepping the boundaries. The role of the Magistrate is to handle imminent breaches of peace, not to settle property disputes, which is within the purview of civil courts.

Instead, if there is a need to prevent breach of peace, the Magistrate can take measures under Section 107 of the CrPC.

As an upshot, no grounds to interfere. Dismissed.

Pending application(s), if any, stand disposed of.



(ARUN MONGA),J

55-/Jitender//-

Whether fit for reporting- Yes / No