



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-3662-2023 (O&M)

Bijender Singh Jhakhar @ Brijender Jakhar and others ...Petitioners

Versus

State of Haryana and others ...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	15.07.2026
2	The date when the judgment is pronounced	29.07.2026
3	The date when the judgment is uploaded on the website	29.07.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Suresh Kumar Kaushik, Advocate
for the petitioners. (Though VC)

Mr. Apoorv Garg, Addl. A.G., Haryana.

Mr. Saksham Mahajan, Advocate
for respondent No. 4.

MANISHA BATRA, J.

1. The present petition has been filed under Section 482 of Cr.P.C. (corresponding to Section 528 of BNSS) for quashing of the complaint/Kalandra dated 09.07.2022 as well as complaint dated 22.09.2022, filed under Section 145 of Cr.P.C. as well as for quashing of order dated 22.12.2022 (Annexure P-7).
2. Brief facts of the case relevant for the purpose of the disposal of the present petition are that petitioner No. 2 had purchased the plot measuring 206



square yards situated in revenue estate of village Basai, Tehsil and District Gurugram from petitioner No. 3 vide sale deed dated 14.03.2022. Possession thereof was delivered and mutation was sanctioned in his favour. Pursuant thereto, petitioner No. 2 constructed a room and thereby obtained electricity connection. Subsequently, respondent No.4 lodged a complaint dated 28.06.2022 alleging illegal possession of the aforesaid property as she was the rightful owner of the said plot, which she had purchased from one Ajay Kumar. She also instituted a civil suit dated 07.07.2022 for partition and possession with consequential relief of permanent and mandatory injunction. Subsequently, respondent No.3 initiated proceedings under Section 145 of the Code against petitioners vide kalandra dated 09.07.2022. The respondent No.4 then filed a complaint dated 22.09.2022 before the Court of Sub Divisional Magistrate, Gurugram, who vide order dated 22.12.2022, had ordered Patwari to submit report qua demarcation of land. In the meantime, vide order dated 20.07.2022, passed by learned Civil Court, it was directed that the parties would maintain *status quo* regarding possession over the property.

3. It is argued by the learned counsel for the petitioners that since in the aforesaid civil suit for partition and possession, the parties have been directed to maintain status quo, therefore, respondent No. 4 has no *locus standi* to proceed under Section 145 of the Code. It is further argued that once the learned Civil Court was seized with the matter of the aforesaid disputed plot between the petitioners and respondent No.4, the Magistrate could not have initiated the proceedings under Section 145 of the Code and pass order of appointment of Receiver for demarcation of the property in dispute. The proceeding



under Section 145 of the Code cannot be sought, where relief of protection of the property can be applied for before the Civil Court as the Civil Court is competent to decide the question of title as well as possession between the parties and the order of the Civil Court would be binding on the Magistrate. It is further argued that parallel proceedings cannot be initiated by the police or Magistrate when the dispute is already pending before the Civil Court. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned Kalandra is liable to be quashed. To fortify his arguments, learned counsel for the petitioners has relied upon the authorities cited as ***Mahant Ram Saran Dass v. Harish Mohan, 2001 (10) SCC 758, Kunjbihari v. Balram and another, 2006 (1) SCC 66, Kartar Singh v. Balbir Singh Malik and others, 1990 (1) RCR (Criminal) 89 and Ram Niwas and others v. The State of Haryana and others, 1992 (1) RCR (Criminal) 624.***

4. *Per contra*, it is argued by the counsel of respondent No.4 that no case is made out for exercising inherent powers by this Court. The petitioners had got prepared a forged sale deed but she was the rightful owner of the said property since the year 2000. It is further argued that the said order of *status quo* had not resulted in any final adjudication as to which party was in the possession of the property, therefore, proceedings under Section 145 of the Code are not liable to be quashed. To buttress his arguments, learned counsel has relied upon the authority cited as ***Mukhtiar Singh v. State of Punjab, CRM-M-359-1997, decided on 01.05.1997.***

5. This Court has heard the rival submissions.

6. The scope of proceedings under Section 145 of the Code is well



settled. The provision does not confer jurisdiction upon the Executive Magistrate to adjudicate questions of title or finally determine the rights of the parties over the disputed property. Its object is merely preventive in nature, i.e., to preserve public peace where a dispute concerning immovable property gives rise to an apprehension of breach of peace. At the same time, it is equally well settled that where the Civil Court has already adjudicated the rights and possession of the parties, continuation of proceedings under Section 145 of the Code would ordinarily be unwarranted. It is, therefore, necessary to examine whether the facts of the present case satisfy the said principle.

7. In the present case, it is not disputed that respondent No.4 instituted a civil suit seeking partition, possession and consequential reliefs with respect to the property in dispute and that the learned Civil Court, vide order dated 20.07.2022, directed the parties to maintain status quo regarding possession. However, a careful reading of the said interim order reveals that the Civil Court has not recorded any finding, even prima facie, as to which of the parties was in actual or settled possession of the disputed property. The order merely preserves the existing state of affairs till adjudication of the rights of the parties. Such an order cannot be construed as a determination of possession nor can it be said that the Civil Court has conclusively assumed control over the issue so as to completely exclude the jurisdiction of the Executive Magistrate under Section 145 of the Code. The principal contention of the petitioners is that once the Civil Court had passed an order directing maintenance of status quo, the Executive Magistrate ceased to have jurisdiction to proceed under Section 145 of the Code. This submission cannot be accepted in the facts of the present case. The



proceedings under Section 145 of the Code are intended to prevent breach of peace and not to decide civil rights. Merely because a civil suit is pending would not render such proceedings non-maintainable where the Civil Court has not adjudicated the question of possession and there exists material indicating a likelihood of breach of peace.

8. The judgments relied upon by learned counsel for the petitioners do not advance their case, as they were rendered in materially different factual circumstances. In those cases, either the competent Civil Court had already adjudicated or substantially determined the rights and possession of the parties, or effective protection had been granted in favour of one of the parties, leaving no occasion for parallel preventive proceedings under Section 145 of the Code. It was in that backdrop that continuation of such proceedings was held to be unwarranted. In the present case, however, the civil litigation is still pending and the learned Civil Court has merely directed the parties to maintain status quo without recording any finding as to actual or settled possession of the disputed property. Thus, there has been no adjudication which could render the proceedings under Section 145 of the Code redundant or an abuse of the process of law. The factual foundation of the present case is, therefore, fundamentally distinct, and the ratio of the authorities relied upon by the petitioners is not attracted to the controversy in hand.

9. On the other hand, the principle laid down by this Court in ***Mukhtiar Singh's case (supra)*** squarely applies to the facts at hand. It has been held therein that an order of status quo passed by the Civil Court does not amount to an adjudication regarding possession and that, where there exists an apprehension



of breach of peace, the Executive Magistrate is not denuded of his jurisdiction to invoke Section 145 of the Code. The proceedings under the said provision are preventive in nature and continue to remain available until the Civil Court finally determines the rights of the parties. It is also significant that the impugned order dated 22.12.2022 does not finally determine the rights of either party. The learned SDM has merely directed the Patwari to submit a report regarding demarcation of the property, evidently with a view to effectively conduct the proceedings pending before him. Such an order neither decides title nor confers possession upon either party. No prejudice of an irreversible nature is shown to have been caused to the petitioners so as to warrant exercise of the inherent jurisdiction of this Court under Section 482 of the Code.

10. The inherent jurisdiction under Section 482 of the Code is to be exercised sparingly and only where continuation of the proceedings would amount to abuse of the process of law or where interference is necessary to secure the ends of justice. In the facts of the present case, this Court is unable to conclude that the initiation or continuation of proceedings under Section 145 of the Code suffers from such patent illegality or abuse as would justify quashing at the threshold. The rights of the parties with respect to the disputed property shall ultimately abide by the decision of the competent Civil Court and any observations made during the proceedings under Section 145 of the Code shall naturally remain subject thereto. Consequently, finding no merit in the present petition, the same is dismissed.

11. However, it is clarified that nothing observed herein shall be construed as an expression on the merits of the rival claims of the parties

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regarding title or possession, which shall be adjudicated independently by the competent Civil Court in accordance with law.

29.07.2026
Wassem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>