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01

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-54438-2025 (O&M)

Reserved on: 19.01.2026.

Pronounced on: 23.03.2026

POONAM MAHANT

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ANR.

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Brijesh Nandan, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

Mr. Deepinder Singh Virk, Advocate
for respondent No.2.

SURYA PARTAP SINGH. J.

1. By virtue of this petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 the extraordinary jurisdiction of this Court has been, invoked by the petitioner, for setting aside the order dated 12.09.2025 passed by learned Additional Sessions Judge, Patiala, hereinafter being referred to as impugned order. The impugned order is a common order passed by the Court of learned Additional Sessions Judge, Patiala, hereinafter being referred as 'revisional court', with regard to three revision petitions.

2. In nut-shell the background of the case is that, that with regard to dispute qua possession of the property in dispute, the proceedings under Section



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145/146 Code of Criminal Procedure, hereinafter being referred to as Cr.P.C. were taken up and in the above-mentioned proceedings the learned Sub Divisional Magistrate, Patiala passed the orders dated 02.06.2021 and 04.10.2021. The above-mentioned orders were challenged by virtue of above-mentioned two petitions.

3. In addition to above as the second complaint was filed by the police on 06.12.2023, with regard to the same property, the third revision petition was filed.

4. Heard.

5. It has been contended by learned counsel for the petitioner that a grave error of judgment has been committed by the learned 'revisional court' when without looking into the factual matrix of the case, and without appreciating the relevant law, the above-mentioned revision petitions have been allowed and the order dated 02.06.2021 and 04.10.2021 have been set aside. According to learned counsel for the petitioner it was well within the competence and jurisdiction of the learned Sub-Divisional Magistrate to record a satisfaction with regard to delivery of possession to a party, who was in possession of the property in dispute on the date of filing of complaint by the SHO concerned. According to learned counsel for the petitioner the above-mentioned jurisdiction was exercised, judiciously, by the learned Sub-Divisional Magistrate and the possession of the property was rightly delivered to the petitioner, on being satisfied that she was in possession of the disputed property on the date when the complaint under Section 145 Cr.P.C. was initiated.



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6. In addition to above, it has also been contended by learned counsel for the petitioner that, merely, on the basis of conjectures and surmises the learned 'revisional court' has set aside the order passed by the learned Sub-Divisional Magistrate, which needs interference and indulgence, by exercising extra-ordinary jurisdiction vested in this Court. According to learned counsel for the petitioner where the protection of property can be ordered by the Civil Court, provisions of Section 145 Cr.P.C. cannot be invoked. In support of above contentions, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble the Supreme Court of India in the case of 'Amresh Tiwari vs. Lalta Prasad Dubey and another' 2000(2) R.C.R.(Criminal) 614.

7. The above-mentioned arguments have been controverted by learned counsel for the respondent No.2. It has been contended by learned counsel for the respondent No.2 that the moot question to be determined in the present petition is the legality of impugned order passed by the learned 'revisional court'. According to learned counsel for the respondent No.2 if the impugned order is tested on the touch scale of bare statutory provisions, it transpires that the proceedings conducted by the Court of learned Sub-Divisional Magistrate, were in utter violation of the statutory procedure, laid down under Sections 145 and 146 of the 'Code of Criminal Procedure'.

8. While defending the impugned order, it has been contended by learned counsel for the respondent No.2 that the the defects in the procedure, adopted by the Court of learned Sub-Divisional Magistrate, have been rightly pointed out by the learned 'revisional court', and therefore, the learned 'revisional court' was left with no option, but to accept the revision petitions,



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and set aside the orders dated 02.06.2021 and 04.10.2021, passed by the Court of learned Sub Divisional Magistrate. While claiming that the present petition has got no merit, the learned counsel for the respondent No.2 has sought for dismissal of the same.

9. The record has been perused carefully.

10. Before advertng to any conclusion it shall be appropriate to look into the chronology of events pertaining to the present petition. The same may be summarized in the following manner:-

- the dispute pertains to a property i.e. property No.381/7, Jattan Wala Chontra Patiala, ad-measuring around 243 square yard, popularly known as 'Dera' being referred as disputed property;
- the above-mentioned property was constructed by one 'Lala Satpal Mahant', 'Parkash Mahant' and their Guru 'Ramkali Mahant', who had purchased the same vide sale deeds dated 15.07.1980 and 25.01.1993;
- initially 'Baniani Mahant' was the Mahant, who had two disciples/chela, i.e. 'Ramkali Mahant' and 'Lala Satpal Mahant';
- on the death of 'Baniani Mahant', 'Ramkali Mahant' became Guru and 'Lala Satpal Mahant' and 'Parkash Mahant' became her Chelas;
- on the death of 'Ramkali Mahant', and 'Parkash Mahant', 'Lala Satpal Mahant' became the successor of the Dera;



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- 'Lala Satpal Mahant' executed a Will in favour of respondent No.2 on 11.09.2017 and thus, respondent No.2 inherited the above-mentioned property.

11. The dispute arose between the parties subsequent thereto. It is the claim of the petitioner that she alongwith her Guru 'Shabnam Mahant' purchased the disputed property from the respondent No.2 and with regard to above an agreement to sell was executed on 04.08.2020. According to petitioner on payment of entire sale consideration the possession of disputed property was handed over by the respondent No.2, to the petitioner and therefore, the petitioner had been enjoying the possession thereof. As per petitioner since then she and her disciples are in uninterrupted possession of the disputed property.

12. The petitioner has further alleged that subsequently, the respondent No.2, out of greed, tried to take over the possession of the disputed property and for that purpose she forcibly entered into the disputed property alongwith 70-80 persons, who were armed with deadly weapons. According to petitioner, in the above-mentioned assault launched by the respondent No.2 serious injuries were suffered by the petitioner and her followers. As per petitioner in the above-mentioned incident valuables articles lying in the disputed property, such as gold and silver ornaments, were also taken away by the assailants. It was further alleged by the petitioner that two followers of the petitioner were also abducted by the assailants, who were, later on, got released by the police. According to petitioner with regard to the above-mentioned incident, FIR No.234 dated 25.05.2021 was lodged.

13. In the backdrop of above-mentioned facts, when a report was submitted in the Court of learned Sub Divisional Magistrate about apprehension



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of breach of peace, by taking cognizance on the complaint, filed by SHO concerned under Section 145 of Cr.P.C., the impugned orders dated 02.06.2021 and 04.10.2021 were passed. Both the above-mentioned orders were subject matter of the revision petitions filed before the learned 'revisional court', and the learned 'revisional court' vide impugned order set aside both the orders. Aggrieved of the above-mentioned order this revision petition has been filed.

14. The learned 'revisional court' while disposing of the above-mentioned revision petitions observed as under:-

“no proper due procedure has not been followed by the concerned Magistrate as provided under Section 145 Cr.P.C and 146 Cr.P.C. The orders passed by learned Sub Divisional Magistrate, Patiala vide orders dated 2.6.2021 and 4.10.2021 are absolutely is not in consonance with provision of S.145 and S.146 Cr.P.C and are not sustainable in the eyes of law. Neither proper opportunity of hearing has been given to the parties. Consequently, in view of the discussion made above the revision filed by the revisionists stands allowed. The orders dated 2.6.2021 and 4.10.2021 passed by Sub Divisional Magistrate, Patiala stands set aside. Learned Sub Divisional Magistrate, Patiala is directed to pass fresh order after duly complying the provision of S.145 and 146 Cr.P.C and in view of the observations made herein-above and after giving due opportunity of hearing to both the parties. Both the parties are directed to appear before Sub Divisional Magistrate, Patiala at 10.00 a.m. on 16.9.2025. The copy of this order be also placed on the connected files in CRR-199-2021 and CRR-179-2024. The point of determinations so formulated are answered accordingly. In view of the above observations made above, the criminal revision petitions bearing no.122/21 and 199/21 are allowed and the revision petition bearing no.179/24 stands dismissed accordingly.”



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15. A bare perusal of the order passed by the learned 'revisional court' shows that the rights of the parties, with regard to possession over the disputed property, have not been determined by the learned 'revisional court'. Rather finding the procedure, adopted by the learned Court of Sub-Divisional Magistrate (hereinafter being referred to as trial Court), to be defective, the learned 'revisional court', has remanded the case back to the learned trial Court for fresh decision.

16. As far as the procedure adopted by the learned trial Court is concerned, the same is reflected from the contents of order dated 02.06.2021. The pith and substance of order dated 02.06.2021 is that on 01.06.2021 a complaint (Kalandra) under Section 145 Cr.P.C. was presented and the statement of parties were recorded. Thereafter, the learned trial Court observed as under:-

“After listening to the lawyers and examining the claims submitted by the parties and the statements of the IO and the record on the file, it was found that the Dera #381/7 Jattan wala Chountra Patiala and a plot Jattan thieves leaving the graves on which both the parties claim their rights and are fighting with each other. The two parties could break the law-and-order situation at any time by launching a major dispute. Therefore, I Charanjit Singh, PCS, Sub Divisional Magistrate, Patiala Appoint Naib Tehsildar, Patiala under Section 146 (1) of the Code of Criminal Procedure as receiver of the abovesaid property and further instruct them to get possession of the disputed property immediately. Apart from this, the case of the parties pending in the



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civil court in which whatever the court decides will be bound to abide by it. This order was issued today with my hands and seal of the court.”

17. Subsequent thereto, in the same proceedings on the application of petitioner the learned trial Court, vide order dated 04.10.2021 directed for the withdrawal of order dated 02.06.2021, while recording the following observations :-

“Therefore the application of the applicant is hereby allowed and keeping in view the above circumstances the order dated 02.06.2021 passed by this Court is hereby withdrawn and Receiver is being directed to hand over possession of the disputed property to Party No.1. whatever civil cases are pending between the parties whatever decision will be taken by the Hon'ble Court the parties will be bound by the same.”

18. As far as the above-mentioned proceedings conducted by the learned trial Court are concerned, before adverting to any finding with regard to procedure adopted by the learned trial Court it shall be appropriate to look into the scheme provided by the statute, i.e. Section 145 and Section 146 of 'Criminal Procedure Code'. The Section 145 of Cr.P.C. provides that whenever an Executive Magistrate is satisfied from a report of Police Officer or upon other information that a dispute is likely to cause a breach of the peace exists, concerning any land or water or the boundaries thereof, he shall make an order in writing stating the grounds his being so satisfied.

19. The above-mentioned provision further provides that on recording of satisfaction the Executive Magistrate shall require the parties concerned, involved in the dispute, to attend his Court either in person or through their



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counsel on the specified date and time and put in written statements of their respective claims, qua possession over the property in dispute.

20. Section 145(3) of Cr.P.C. prescribes that, a copy of the order shall be served in the manner provided by the Court and at least one copy shall be published by affixing at some conspicuous place at or near the subject of dispute.

21. Section 145(4) of the Code of Criminal Procedure prescribes that the Executive Magistrate shall peruse the statements so put in by the parties then give opportunities to the parties of being heard, receive evidence which parties may produce, take further evidence, if any, as he may think fit and then take a decision which of the parties was in possession of the subject matter of the dispute on the date when order under Section 145(1) Cr.P.C. was passed.

22. The proviso to Section 145(4) provides that if any of the parties has been dispossessed within two months next before the date, on which the report was made by the police officer, the said party may be treated to be in possession on the date of order under Section 145(1) Cr.P.C.

23. Since in the instant case a receiver was also appointed by the learned Sub-Divisional Magistrate, Section 146 of Cr.P.C. also comes into picture. According to Section 146(1) Cr.P.C. if the Magistrate after order under Section 145(1) Cr.P.C. considers the case to be one of the emergency, or if he decides that none of the parties was in possession of the disputed property or is unable to satisfy himself as which of them was in such possession, he may attach the subject of dispute until a competent Court has determined the right of the parties thereto, with regard to entitlement to the possession thereof.



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24. If the above-mentioned bare provisions enshrined under Sections 145 and 146 of Cr.P.C. are taken into considerations, and the order dated 02.06.2021 is analyzed in the light of above-mentioned statutory provisions, it transpires that the entire procedure prescribed under the statute was ignored by the learned trial Court, and in a very hasty manner without adopting the proper procedure firstly the order dated 02.06.2021 was passed, and thereafter, in the similar fashion, the same was withdrawn vide order dated 04.10.2021.

25. The learned 'revisional court' in the impugned order has highlighted the above-mentioned defects in the proceedings conducted by the learned trial Court and the above-mentioned defect is the primary foundation for accepting the revision petition No.122 of 2021.

26. In the present case one more angle pertaining to the disputed property, to be taken into consideration, is that, that with regard to the same disputed property a civil suit is also pending. With regard to civil dispute qua the property which is subject matter of proceedings under Section 145 Cr.P.C., the Hon'ble Supreme Court of India in the case of 'Amresh Tiwari' (supra) has observed that in cases, where civil suit is for possession or for declaration of title in respect of the same property, and where relief regarding protection of the property concerned can be granted by the Civil Court, the proceedings under Section 145 should not be allowed to continue. According to Hon'ble Supreme Court of India, this is because the Civil Court is competent to decide the question of title as well as possession between the parties, and the order of Civil Court would be binding on the Magistrate.

27. In the light of above-mentioned discussions, it transpires that in the present case this inference can safely be drawn that no error of judgment,



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whatsoever, has been committed by the learned 'revisional court', while pointing out the defects in the proceedings conducted by the learned Sub-Divisional Magistrate, and passing the order dated 02.06.2021 and 04.10.2021 in the proceedings under Sections 145/146 Cr.P.C. Thus, it is hereby observed that there is no scope for indulgence and interference in the finding recorded by the learned 'revisional court'.

28. As a sequel to above-mentioned observations, it is hereby observed that the present petition is devoid of merits and deserves dismissal. Hence, the same is hereby **dismissed**, accordingly.

29. The parties are directed to appear before the Court of learned Sub-Divisional Magistrate on 07.04.2026 at 10 A.M.

30. All other pending applications, if any, shall also stand disposed off, accordingly.

(SURYA PARTAP SINGH)
JUDGE

23.03.2026

vipin

Whether speaking/reasoned : Yes
Whether Reportable : No