

Ram Sumer Puri Mahant

Vs

State of U. P. and Others

Criminal Appeal No. 655 of 1984

(D. A. Desai, Ranganath Misra JJ)

17.12.1984

ORDER

1. Special leave granted.

2. Challenge in this application is to the order of the Allahabad High Court refusing to interfere in its revisional jurisdiction against an order directing initiation of proceedings under Section 145, Code of Criminal Procedure ('Code' for short), and attachment of the property at the instance of respondents 2-5. Indisputable, in respect of the very property there was a suit for possession and injunction being Title Suit No, 87 of 1975 filed in the Court of Civil Judge at Balla wherein the question of title was gone into and by judgment dated February 28, 1981, the said suit was dismissed. The appellant was the defendant in that suit. According to the appellant close relations of respondents 2-5 were the plaintiffs and we gather from the counter-affidavit filed in this Court that an appeal has been carried from the decree of the Civil Judge and the same is still pending disposal before the appellate court. The assertion made in the petition for special leave to the effect that respondents 2 to 5 are close relations has not been seriously challenged in the counter-affidavit. When a civil litigation is pending for the property wherein the question of possession is involved and has been adjudicated, we see hardly any justification for initiating a parallel criminal proceeding under Section 145 of the Code. There is no scope to doubt or dispute the position that the decree of the civil court is binding on the criminal court in a matter like the one before us. Counsel for respondents 2-5 was not in a position to challenge the proposition that parallel proceedings should not be permitted to continue and in the event of a decree of the civil court, the criminal court should not be allowed to invoke its jurisdiction particularly when possession is being examined by the civil court and parties are in a position to approach the civil court for interim orders such as injunction or appointment of receiver for adequate protection of the property during pendency of the dispute. Multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. We are, therefore, satisfied that parallel proceedings should not continue and the order of the learned Magistrate should be quashed. We accordingly allow the appeal and quash the order of the learned Magistrate by which the proceeding under Section 145 of the Code has been initiated and the property in dispute has been attached. We leave it open to either party to move the appellate Judge in the civil litigation for appropriate interim orders, if so advised, in the event of dispute relating to possession.

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