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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 22nd September, 2025*

+ CRL. M.C. 6793/2025

KRISHAN DEV BHARAL

.....Petitioner

Through: Mr.Prem Prakash, Advocates.

versus

STATE GOVT. OF NCT OF DELHI AND ORS. ...Respondents

Through: Ms. Richa Dhawan, APP for State
with SI Salman Ahmed, PS Huaz
Khas

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. Petitioner herein seeks quashing of the impugned order dated 13.05.2025 passed by the Sub-Divisional Magistrate, Hauz Khas, New Delhi and consequently an earlier order dated 19.02.1998 passed by the Sub-Divisional Magistrate (Defense Colony) is also sought to be set aside.
2. The case set up by the petitioner is that the petitioner's father, Shri Bhader Sain, was in possession of Property No. 103-D, Gautam Nagar, New Delhi, which he used for cultural and religious activities. In 1998, on the basis of a false complaint filed by Shri M.R. Gulati (attorney of Smt. Prakash Sood), the property was sealed under Section 146(1) Cr.P.C. without properly hearing Bhader Sain.
3. Subsequently, Smt. Prakash Sood filed a possession suit, but it was



dismissed by the ADJ on 04.07.2018. The dismissal was upheld by the Delhi High Court on 06.01.2023, confirming that Smt. Sood had no right, title, or interest in the property.

4. Despite these rulings, the property remains sealed. The petitioner wrote to the SDM on 08.02.2023, but no action was taken. The petitioner then filed CrI. M.C. No. 4089/2023, and the Delhi High Court on 15.04.2025 directed the SDM to decide the de-sealing application within four weeks.

5. The petitioner states that possession of property was wrongly taken from his father and should have been restored to him. However, the SDM rejected the application, did not order de-sealing, and did not hand over possession to the petitioner, leaving him deprived of the property for over 25 years.

6. Learned counsel for the petitioner argues that the order passed by the Ld. S.D.M. is liable to be set-aside and quashed, inter alia, on the ground that the SDM failed to appreciate the quasi-civil nature of proceedings under Section 145 Cr.P.C., which are limited to determining possession as on the relevant date. At the time of the false complaint by Respondent No.3's predecessor, possession was with Shri Bhader Sain (petitioner's father), and hence the SDM ought to have de-sealed and restored the property.

6.1 He argues that the possession suit filed by Respondent No.3's predecessor was dismissed, proving they had no title. Despite this, the SDM ignored documents showing Bhader Sain's possession, exceeded jurisdiction by indirectly deciding title, and continued to keep the property sealed unlawfully since 19.02.1998.

6.2 The SDM's order is mechanical, without reasons, beyond powers and



contrary to settled law. The petitioner and his family have been wrongfully deprived of possession for decades solely on the basis of a false complaint.

7. Having heard and perused the case file, I am of the view that the petition is sans any merit and deserves to be dismissed for the reasons stated herein after.

8. At the outset, perusal of the impugned order dated 13.05.2025 reveals that during proceedings before the SDM, it was found that the original case file was untraceable, so both parties were asked to produce relevant documents.

8.1 The petitioner relied on the dismissal of the possession suit (04.07.2018) filed by Smt. Prakash Sood and the dismissal of the subsequent appeal (06.01.2023) before the High Court. The SDM noted that in the civil suit, neither party could prove ownership or title (Khasra No. 71 or 72), and therefore, the suit was dismissed. The High Court also dismissed the appeal for non-prosecution.

8.2 Importantly, neither party has obtained any decree of title/possession from a competent civil court. Since 1998, predecessor SDM had directed that the property was to remain sealed until rights were determined by a competent court, and no such decree exists, the current incumbent i.e. successor SDM held that he cannot review or set aside that order.

9. Accordingly, the SDM dismissed the petitioner's application dated 08.02.2023 for de-sealing and possession. In my opinion too, rightly so. Pertinently, the SDM validly opined that sealing order of 19.02.1998 remains in force until either party secures a civil court decree establishing rights.

10. The proceedings under Sections 145 and 146 Cr.P.C. are preventive



and *quasi-civil* in nature, with the inquiry limited only to determining possession for maintaining peace and not to decide ownership or title. Both parties were heard and submitted documents before the SDM.

11. Upon consideration of the submissions before this Court and based on material on record, position that emerges is that the property in dispute i.e. Plot No. 103-D, Gautam Nagar, was attached by the then SDM Defence Colony on 19.02.1998 under Section 146(1) CrPC, after finding that the dispute between the parties was likely to cause breach of peace. That order specifically directed that the property shall remain under attachment until a decree or order of a competent court determining the rights or possession is obtained.

12. The SDM order is co terminus with findings of a competent civil court to be returned in accordance with law. It is settled law that proceedings under Sections 145 and 146 CrPC are preventive in nature, aimed at maintaining peace and *status quo*, and do not adjudicate title or ownership. Consequently, SDM cannot confer possession or direct de-sealing of the property unless the condition laid down in the earlier 1998 order *viz.* production of a competent Court's decree, is satisfied.

13. The civil suit filed by Smt. Prakash Sood claiming ownership was dismissed by the Court of the Ld. ADJ on 04.07.2018, holding that neither plaintiff nor defendants could establish ownership or prove whether the property fell in Khasra No. 71 or 72. The appeal against that judgment was also dismissed by the High Court on 06.01.2023. During hearing before SDM, both sides admitted that they do not hold any decree of title or possession in their favour.

14. The petitioner cannot, by way of an application for de-sealing,



indirectly nullify the subsisting earlier order of 1998, particularly when it has never been challenged before any superior forum. To de-seal the property in absence of a civil adjudication would risk reviving the very dispute which had earlier threatened public order, thereby defeating the object of Sections 145 and 146 CrPC.

15. In these circumstances, and until either party produces a decree or order of a competent civil court conclusively determining title or possession, the attachment order dated 19.02.1998 shall continue to operate. SDM adopted the correct approach in law by declining to de-seal the property in the absence of such decree.

16. The application dated 08.02.2023 by Sh. Krishan Dev Bharal for de-sealing and possession was thus rightly dismissed. The 1998 sealing/attachment order remains in force only until a competent court determines rights of ownership/possession.

17. No grounds for interference are thus made out to exercise discretionary jurisdiction. The petition is dismissed. However, the petitioner is at liberty to seek any other remedy as may be available under law, if so advised.

ARUN MONGA, J

SEPTEMBER 22, 2025/SV