



2025:DHC:4742



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

%

*Reserved on: February 28, 2025*

*Pronounced on: May 30, 2025*

+

**CRL.M.C. 2013/2018, CRL.M.A. 7135/2018**

**ADESH GUPTA**

S/O LATE SHRI P.D. GUPTA,

3, PURNIMA FARM HOUSE, CHANDANHULLA,

NEW DELHI

.....Petitioner

Through: Appearance not given.

**VERSUS**

1. **THE STATE,**  
THROUGH SECRETARY  
(GOVT. OF NCT OF DELHI)

2. **MS. ANJU GUPTA**  
W/O LATE SHRI DINESH GUPTA

3. **SHRI ARPAN GUPTA**  
S/O LATE SHRI DINESH GUPTA

4. **SMT. AKRITI GUPTA**  
D/O LATE SHRI DINESH GUPTA

.....Respondent

Through: Mr. Shoaib Haider, Ld. APP for the  
State with S/SI Neha P.S. Mehrauli.  
Ms. Shubhangi Tiwari, Advocate for  
R-2 and R-3.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**



2025:DHC:4742



**NEENA BANSAL KRISHNA, J.**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) read with Article 227 of Constitution of India has been filed by the Petitioner, Sh. Adesh Gupta, to set aside the Order dated 20.01.2018 of the Ld. Additional Session Judge, New Delhi, which has upheld the Order dated 30.12.2016 of SDM, Mehrauli in case No.642/RA/MEH/2016, and the parties be directed to maintain *status quo ante* with regard to possession of the farm houses.

2. ***Briefly stated***, M/s Bakemens Industries Pvt. Ltd. was the owner of the Farmhouses having total land admeasuring 42 bighas and 18 biswas comprising in *Khasra Nos.* 125/1(2-14), 125/2(2-2), 126/3(0-5), 127/1(1/16), 128/5(0-17), 129(4-16), 130(4-16), 131(2-16), 132(1-10), 133(5-13), 138(4-16), 139(4-16), 140/1(2-2)128/3(0-11) & 128/4(0-14) 128/1 (0-14) and 128/2 (2-0) situated at Village Chandan Hulla, Tehsil Mehruali, Delhi. It is stated that the said land was purchased by the Petitioner, Sh. Adesh Gupta, and he has paid Rs.65 Lakhs as earnest money from his account. He being the member of the joint family, got 04 sale deeds executed on 23.06.2003, out of which one was in the name of his elder brother, Late Sh. Dinesh Gupta, Respondent No.1 and two Farms in the name of his wife Smt. Anju Gupta, Respondent No.2 as Late Sh. Dinesh Gupta was mentally sick and was not competent to take any decision. The fourth Farm was in his name.

3. The Petitioner asserted that specific Khasra numbers were mentioned in each of the respective Sale Deeds with demarcated map thereof duly annexed with each one of them so that the respective area of the farm can be easily identified; the Farms were thus, duly demarcated.



2025:DHC:4742



4. It is further asserted by the Petitioner, that he took the possession of the entire Farm land from erstwhile owners on the execution of the four Sale Deeds dated 23.06.2003. The entire Farmhouse had single boundary wall with one entry as one Unit which has been in exclusive possession of the Petitioner without any objection, interruption from anyone. It is the Petitioner, who with his family, has been residing since 23.06.2003 i.e. w.e.f. date of purchase till date, and he alone had been maintaining it.

5. Certain family disputes arose between the parties and with an intent to harass and teach lesson to the Petitioner and his family, Respondent No.2, Smt. Anju Gupta on 09.09.2015 tried to interfere in the peaceful possession of the Petitioner, Sh. Adesh Gupta by illegally trespassing in the aforesaid farmhouse, which was resisted by the Petitioner and the Respondents were unable to achieve their illegal object of trespassing.

6. In pursuit of the illegal object, they adopted illegal method and entered into a criminal conspiracy with the Authorities and approached the Tehsildar, Mehrauli, who issued Notice dated 20.11.2015 to the Petitioner for conducting alleged demarcation of the land of Khasra No.94,95/1,96 etc., village Chandanhulla owned by Respondent No.2, Smt. Anju Gupta.

7. Sh. Adesh Gupta gave his Reply dated 23.11.2015, wherein he specifically pointed out that the land in question is already demarcated and the Sale Deeds contained the specific Khasra numbers with the respective site plan. There was no need of any further demarcation. In fact, the intention of the Respondents was not bonafide as they wanted to grab/trespass into the Farm House, to which they had no right, title or interest.



2025:DHC:4742



8. Again, a similar Notice on 01.12.2015 was issued for carrying out demarcation, which was duly replied by the Petitioner, Sh. Adesh Gupta on 07.12.2015.

9. With an intent to achieve illegal and unlawful possession, Respondent No.2, Smt. Anju Gupta along with some anti-social elements on 09.12.2015, broke the shutter and back wall of the Farmhouse and tried to illegally trespass into the Farmhouse. Such illegal and unlawful action was objected to by the Petitioner, Sh. Adesh Gupta and his security guards. The matter was reported to the Police who came to the spot and noticed the broken boundary wall and the shutter. The police officials seized the offending articles i.e. barbered wire, broken pieces of gate etc. The Respondents on account of timely intervention by the police were unable to trespass into the Farmhouse.

10. Another attempt was made by Respondent No.2 along with her son Sh. Arpan Gupta, Respondent No.3 and Smt. Mamta Gupta along with 8-10 other persons to illegally trespass into the Farmhouse at midnight which action was again opposed by the security guards and the matter was reported to the police.

11. At the same time, a Notice dated 15.12.2015 was issued for demarcation of the said land. The Ld. SDM then heard the arguments without giving any opportunity to the Petitioner to lead any evidence.

12. The Notice as given by the Tehsildar was challenged before the Ld. ASJ who vide Order dated 30.12.2016 observed that the proceedings under Section 145 and 147 Cr.P.C., have been initiated correctly and directed that the demarcation be carried out by the Tehsildar. Insofar as registration of



2025:DHC:4742



FIR is concerned, it was observed that the SHO has power to do so under Section 154 Cr.P.C.

13. In terms of the Order of the Ld. ASJ, a Petition under Section 145/147 Cr.P.C. was filed by the Respondents on 02.11.2016 to which a formal Reply was given by the Petitioner on 07.11.2016. The Ld. SDM thus, passed the Impugned Order dated 30.12.2016 wherein the final conclusion was as under:

*“In addition to above, in the interest of justice, the following directions are being issued for strict & time-bound compliance:-*

- a). Respondent No. 2 & 3, shall identify the place from which side & portion of the boundary wall, they want to create their access to the suit land, to avoid any disturbance to the Respondent No. 1 & allegations of trespass; in future, within 02 days. SHO. PS- Fatehpur Beri shall provide adequate force to the concerned for creating access after identification, on urgent basis. This should not be treated as grant of easement but directions to exercise the rights already available under the provisions of the DLR Act, 1954.*
- b). Although, the matter regarding demarcation of the disputed property had already been settled by the Appellate Court and the process should have been completed by now. However, if the same is not completed, then the Teshildar (Mehrauli), GNCTD, is hereby directed to get the process of demarcation completed within 03 days of the issue of this order. SHO, PS-Fatehpur Beri is directed to provide adequate force during the process of demarcation.*
- c). Once the demarcation is completed and the boundaries are earmarked on field to the satisfaction of the concerned, then the Respondent No. 2&3, shall ensure that their*



2025:DHC:4742



*property is duly separated from the property of Respondent No.1 through a boundary wall, to avoid any future disputes”.*

14. The **Revision Petition bearing No. 08/2017** was filed by the Petitioner, Sh. Adesh Gupta, before the Ld. Additional Sessions Judge whereby the Ld. ASJ vide Order dated 20.01.2018, upheld the Order of the Ld. SDM dated 30.12.2016.

15. Aggrieved by the said Order, the present Petition has been filed for quashing of the Order dated 20.01.2018 of Ld. ASJ, who has upheld the Order of the SDM dated 30.12.2016.

16. **The ground of challenge** is that the Order of the SDM was factually incorrect as it noted that he was dealing with the possession of the open agricultural land without considering that in fact, it was a farmhouse bounded by single boundary wall. The Ld. SDM has mentioned four dates of dispossession i.e. 09.09.2015, 28.12.2015, 30.12.2015 & 28.12.2016. There was manifest error in the assertions of the Respondents that they was dispossessed on 09.09.2015.

17. The Ld. ASJ has failed to consider that the SDM himself had observed that the basic ingredients of Sections 145 Cr.P.C. i.e. *apprehension for breach of peace; date of dispossession* and the *claim of the Applicant/ Respondents that they were in possession*, are missing in the Complaint made by the Respondents. Despite so noting, the Ld. SDM has proceeded to pass an Order dated 30.12.2016 under Section 145 Cr.P.C.

18. Further, the Ld. ASJ failed to consider that Section 145 Cr.P.C. does not give any powers to give possession unless the aggrieved party proves that he has been illegally dispossessed from the date of the Complaint. No



2025:DHC:4742



evidence was led by the Respondents in respect of their possession in the subject property and there are no allegations of alleged dispossession in the Complaint dated 30.12.2015 except the prayer of demarcation. There was no even mention of the date of dispossession. *The Impugned Order dated 20.01.2018 is, therefore, liable to be set aside.*

19. ***Respondents No.2 to 4 in their Reply to the Petition*** have denied all the averments made by the Petitioner. They have further stated that the Present Petition has become ***infructuous*** since the Order of the Ld. SDM dated 30.12.2016 which was upheld by the Ld. ASJ dated 20.01.2018, has been fully implemented and the demarcation of the property has already taken place. ***The Petitioner, Sh. Adesh Gupta is in possession of his portion of the property while the boundary wall has been constructed demarcating the property of the Petitioner and the Respondents and Respondents are in possession of their portion of the Farms.*** There has been *no breach of peace* since the Parties have been put in possession of their respective portion. *Therefore, the present Petition is liable to be dismissed.*

20. ***The Petitioner, Sh. Adesh Gupta in his Rejoinder affidavit*** while denying that the Petition has become infructuous, has stated that the Order dated 30.12.2016 of the Ld. SDM was illegal, without jurisdiction, perverse and can always be challenged for *status quo ante* to be restored. It is a matter of record that in fact, there was never breach of peace. However, under the garb of equal possession, the proceeding under Section 145/147 Cr.P.C. was initiated by the Respondents which was neither legal nor sustainable. The Ld. SDM was wholly erroneous in passing the Impugned



2025:DHC:4742



Order dated 30.12.2016. It is submitted that pursuant to the orders of the Ld. SDM, the Respondents have illegally and forcefully taken possession on 02.02.2017.

21. It is denied that the proceeding initiated by the Respondents was maintainable under Section 145/147 Cr.P.C. *It is submitted that the Order dated 20.01.2018 suffers from patent illegality and is liable to be set aside.*

22. **Submissions heard and record perused.**

23. It is not in dispute that 04 Farmhouses were purchased vide separate Sale Deeds. While one Farmhouse was in the name of the Petitioner, Sh. Adesh Gupta, another farmhouse was in the name of Late Sh. Dinesh Gupta and two other farmhouses were in the name of Respondent No.2, Smt. Anju Gupta. It is also not in dispute that specific area was clearly demarcated in each of the sale deed, which were annexed with a site plan. It is further not in dispute that single boundary wall was constructed around the four Farmhouses that were purchased by the Parties and there was only one gate of entry to the 04 Farmhouses.

24. It is further borne out from the respective assertions of the Parties that it was the Petitioner, Sh. Adesh Gupta who took the possession of the entire area after execution of Sale Deeds in 2003 and since then, he along with his family, has been residing in the property.

25. It is evident from the assertion of the Respondents that they were residing in Karnal throughout but because of the cordial relation, there was no dispute inter-se the two families and they had equal access to the Farmhouses. However, eventually, the disputes arose and thus, arose the question of physical demarcation of the different farmhouses. Though the



2025:DHC:4742



areas were already indicated in the site plan, but needed to be physically separated as till then they were being used as one Farm House. There was admittedly only one access gate and there arose an issue of getting the independent access to the farmhouses by the Respondents which was being denied to them.

26. The demarcation Application was filed in November, 2015 before the Tehsildar who made the Order of demarcation which was not to the liking of the Petitioner, Sh. Adesh Gupta who approached the Ld. ASJ, who in his Order dated 30.09.2016 upheld the Order of the Tehsildar directing the demarcation of property. However, the Ld. ASJ also noted that the proceedings under Sections 145/147 Cr.P.C. had been rightly initiated and directed the respondents to file their Application, accordingly.

27. Pertinently, there was no Notice of initiation of proceedings under Sections 145/147 Cr.P.C. on record and apparently these proceedings got initiated on the Application filed by the Respondent, Smt. Anju Gupta to which eventually a Reply/written statement was filed by the Petitioner, Sh. Adesh Gupta.

28. Pertinently, no evidence was led by either party.

29. The Ld. SDM had observed that there was no element of breach of peace. He relied on letter dated 12.12.2015 wherein the Tehsildar/police had observed that the *Petitioner is not permitting demarcation and there is apprehension of breach of peace*. It is, therefore, evident that there were disputes in regard to get the peaceful possession of the Farmland of which the Respondents were owners and they were trying for demarcation, but



2025:DHC:4742



there was no incident to infer that there was breach of peace and to initiate the proceedings under Sections 145/147 Cr.P.C.

30. In *R.H. Bhutani v. Miss Mani J. Desai & Others*, 1968 SCC OnLine SC 5, while dealing with Section 145 of the erstwhile Code of Criminal Procedure, 1898, which is similar to the Section 145 CrPC, the Apex Court had succinctly stated that the object of Section 145 *is to prevent breach of peace and to provide a speedy remedy by bringing the parties before the court and ascertaining who of them was in actual possession and to maintain status quo until their rights are determined by a competent court.* This itself requires that the Magistrate must be satisfied before initiating proceedings that a dispute regarding an immovable property exists and which are likely to cause breach of peace. Once he is satisfied of these two conditions existing, he may pass a preliminary Order under sub-section (1) and thereafter make an enquiry under sub-section (4) and pass a final order under sub-section (6) of Section 145. It is not necessary that at the time of passing the final Order, the apprehension of breach of peace should continue or exist. The enquiry under Section 145 is limited to the question as to who was in actual possession on the date of the preliminary Order irrespective of the rights of the parties. Under the *second proviso*, the party who is found to have been forcibly and wrongfully dispossessed within two months next preceding the date of the preliminary Order, may for the purpose of the enquiry, be deemed to have been in possession on the date of that order. The opposite party may of course, prove that dispossession took place more than two months next preceding the date of that Order and in that case the Magistrate would have to cancel his preliminary Order. On the other hand, if



2025:DHC:4742



he is satisfied that dispossession was both forcible and wrongful and took place within the prescribed period, the party dispossessed would be deemed to be in actual possession on the date of the preliminary Order and the Magistrate would then proceed to make his Final Order directing the dispossessor to restore possession and prohibit him from interfering with that possession until the Applicant is evicted in due course of law.

31. In *Ashok Kumar v. State of Uttarakhand*, (2013) 3 SCC 366, the Apex Court has observed that, *the object of Section 145 CrPC is merely to maintain law and order and to prevent breach of peace by maintaining one or other of the parties in possession, and not for evicting any person from possession. The scope of enquiry under Section 145 is in respect of actual possession without reference to the merits or claim of any of the parties to a right to possess the subject of dispute.*

32. In the present case, *first and foremost*, there were no inter-se disputes between the Petitioner, Sh. Adesh Gupta and the Respondents about the ownership in the Farmhouses. *Secondly*, though the Respondents were residing in Karnal, but they had free access to the Farmland because of their cordial relationship with the Petitioner, Sh. Adesh Gupta. Their possession was open and was never subjected or blocked by the Petitioner.

33. This is also confirmed and corroborated by the fact that the marriage of the son of the Respondent took place in this Farmhouse on 19.04.2008. It is evident that the relationship between the brothers were cordial and though Petitioner, Sh. Adesh Gupta was living physically in the farmhouse, there was no denial of the legal rights of legal ownership and possession of the Respondent and they had never been denied the access to the farmhouse.



2025:DHC:4742



34. When the disputes arose for the first time, Respondent No.2, Smt. Anju Gupta moved an Application for demarcation in November, 2015 and it got escalated to an extent that eventually the proceedings under Sections 145/147 Cr.P.C. got commenced.

35. It is, therefore, rightly contended on behalf of the Petitioner that there was no ground for allowing the Petition under Sections 145/147 Cr.P.C. However, it cannot be overlooked and the clock cannot be turned back as pursuant to the directions of the Ld. SDM dated 30.12.2016, four Farmhouses have been demarcated separately and the Respondents have taken possession of their three farmhouses by building the boundary walls.

36. There is no denial that they were the legal owners and the site plan indicates that there are three sale deeds in their favour and being the legal owners, were entitled to the possession. The possession having been taken of property of which they were legal owners and which was not even disputed by the Petitioner nothing survives inter-se disputes between the parties which has now been resolved in so much as the peaceful separate entry has been restored. It would in fact, be against the interest of justice to direct *status quo ante* for the simple reason that Petitioner, Sh. Adesh Gupta himself has never questioned the rights of the Respondents to be in possession of the three Farmhouses which were admittedly purchased by them vide three separate Sale Deeds.

37. Nothing survives in the present petition and is accordingly disposed of.

38. The Petition and pending Application(s) are accordingly disposed of.



2025:DHC:4742



**(NEENA BANSAL KRISHNA)  
JUDGE**

**MAY 30, 2025  
ck**