SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Sarju Naraln Vs. Lachhmi Narain

Sarju Naraln Vs. Lachhmi Narain

SooperKanoon Citation : sooperkanoon.com/464607

Court : Allahabad

Decided On : Jan-17-1968

Reported in : 1970CriLJ614

Judge : H.C.P. Tripathi, J.

Appellant : Sarju Narain

Respondent : Lachhmi Narain

Judgement :
ORDER

H.C.P. Tripathi, J.

1. This revision is directed against an order of Sri H.C. Verma, Magistrate First Class, Kanpur, referring the case under Section 145, Criminal P. C. for decision to the learned Munsif, Havali.

2. I have heard learned Counsel for the parties.

3. In my opinion the impugned order of the learned Magistrate shows that he had not applied his mind to the evidence before him and had abdicated his functions in favour of the Civil Court. He has not given any reasons as to why he was not in a position to decide the question of possession. If the evidence was balanced he could have easily found out as to whether the balance tilted in favour of one party

or the other. Instead of exercising his mind he has adopted an easy course of referring the matter to the Civil Court for deciding for him as to which of the two parties was in possession on the date of the preliminary order or within two months of that date. It must be remembered that proceedings under Section 145, Criminal P. C. are to be primarily decided by the Magistrate before whom they are initiated and only in extreme cases where complicated questions of law and fact arise making it extremely difficult for him to arrive at a conclusion that he should take advantage of Section 146, Criminal P. C. for referring the question to the Civil Court. The reference of the question in a routine manner for the decision of the Civil Court is not intended by the provisions of Section 14G, Criminal P. C.

4. Accordingly this revision is allowed. The impugned order of the Magistrate is set aside. The case is sent back to him to hear the parties and then to decide the proceedings on the basis of evidence already adduced before him. The record of the case should be sent back at the earliest to the Court below.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com