

Rewad Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Oct-23-1986

Reported in : 1987(2)WLN727

Judge : Guman Mal Lodha, J.

Appeal No. : S.B. Criminal Misc. Petition No. 122 of 1986

Appellant : Rewad

Respondent : State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

Guman Mal Lodha, J.

1. Rewad and Kalu are having litigation for allotment of agricultural land. This suit is pending before the ACM No. 1, Jaipur where application for appointment of receiver is also pending. In the civil court an injunction has already been issued in favour of Kalu and others restraining Rewad and others from disturbing possession of this land.

2. After hearing learned Counsel for the parties I am of the opinion that when Kalu has got injunction in his favour from a regular revenue court, the proceedings under Section 145 Cr. P.C. launched thereafter are mis-conceived. If Rewad and

others committed breach of injunction they can be punished for contempt of court.

3. Kalu and others respondent No. 2 therefore having held to be in possession prima facie by revenue court, no proceedings under Section 145 Cr. P.C. can be taken for making an enquiry as to who was in possession on the date of dispute.

4. In these circumstances since Kalu apprehension is that Rewad and a others by their muscle strength would like to have blood shed and break bones of Rewad and others, the appropriate proceedings can be under Section 107 Cr. P.C. read with Section 116 Cr. P.C.

5. Consequently I accept miscellaneous application of Rewad. Instead of quashing the proceedings under Section 145 Cr. P.C. as a whole I direct that in the interest of justice for ensuring peace the Magistrate concerned should convert these proceedings under Section 107 Cr. P.C. against Rewad and others and drop the proceedings under Section 145 Cr. P.C.

6. The petition is accepted as indicated above.