



2026:AHC-LKO:41447

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 395 of 2016

Junaid Khan And Ors.

.....Revisionist(s)

Versus

State Of U.P. And Ors.

.....Opposite
Party(s)

Counsel for Revisionist(s) : Virendra Kumar Shukla, Anuj Pandey,
Dr. Monica Priyadarshini, Dr. Monica
Shukla, Kamini Singh, Nishant Shukla,
Prashant Shukla

Counsel for Opposite Party(s) : Govt. Advocate

Court No. - 12

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

1. As per office report dated 22/7/2016 notice to respondent nos. 3 to 13 are served on them personally. None appeared on behalf of the respondents nor any counter affidavit has been filed on their behalf.

2. Heard learned counsel for the revisionists, learned A.G.A. for the State and perused the record.

3. The instant criminal revision under Section 397/401 Cr.P.C. has been preferred against the impugned judgement and order dated 4.2.2016 passed by learned Sub-District Magistrate Lambhua, District Sultanpur in Case no. 20/84/83 under Section 145 Cr.P.C. Village Khajuri, P.S. Peeperpur, Tehsil Lambhua, District Sultanpur.

4. By the impugned order, learned Sub-Divisional Magistrate, Lambhua has made a preliminary order dated 14/10/1983 under section 145 (1) Cr. P. C. absolute and directed both the parties that until adjudication of title over the land in dispute, the agricultural plot in question shall continue to

remain in custody of the custodian/ supurdgar. Learned Sub-Divisional Magistrate, Lambhua had directed the SHO concerned to provide the disputed plots in the custody of two custodians and will keep on producing its account to the court. The SHO concerned is also directed to maintain peace on the spot.

5. Learned council for the revisionists submits that the criminal revision has been preferred against the said order passed by Sub-Divisional Magistrate, Lambhua. The revisionists are the sons and legal representative of deceased applicant Mushahib Khan. On the basis of sale deed, the mutation proceedings have been concluded in favor of the revisionists and against that order the appeal filed by the opposite party was also dismissed. Thereafter, they filed a revision before the court of Commissioner, Faizabad and they filed a revision before the Board of Revenue against the order of Divisional commissioner, Faizabad. The Board of Revenue stayed the order of Commissioner on 17/2/2014. The name of the revisionists has been recorded in the revenue record and the opposite parties have no right to disturb the possession of the revisionists over the land in question. Learned Magistrate has passed the impugned order without assigning proper and cogent reasons. As mutation proceeding has attained finality, the title dispute has also been decided between the parties, hence the proceedings under section 145/146 Cr. P. C. are not maintainable.

6. Learned counsel for the revisionists further submits that on the basis of averments made in the supplementary affidavit in which it is stated that an order was passed by the Tehsildar Sadar, Sultanpur, in favor of the applicants on dated 15.09.1998, regarding the said property. Against this order, an appeal was filed by the opposite parties before the Sub-Divisional Magistrate (SDM), Lambhua, Sultanpur. In this appeal, the title was finally determined in favor of the applicants/revisionists on dated

27.02.1999 and order dated 15.09.1998 was upheld by the SDM, Lambhua, Sultanpur. This order was subsequently challenged by the opposite parties before the Additional Commissioner (Judicial), Faizabad Division, Faizabad.

7. Learned counsel for the revisionists also submitted that after dismissal of the revision before the Additional Commissioner, the opposite parties filed an application for restoration to recall the revisional order, but for want of prosecution it was dismissed once again on 28/9/2012. They again filed restoration application upon which the court provided an opportunity for hearing, allowed the matter to be heard on its merits by order dated 30/10/2013. The revisionists filed appeal against the order dated 30/10/2013 passed by Additional Commissioner (Judicial) Faizabad before the Board of Revenue, Lucknow. The Board of Revenue by order dated 30/6/2023 set aside the order dated 30/10/2013 and granted an opportunity of hearing to both the parties and provided two months period to the Additional Commissioner (Judicial), Ayodhya Division, Ayodhya. In compliance of the order of Board of Revenue, an application was filed before the Additional Commissioner (Judicial), Ayodhya Division, Ayodhya. However, due to lack of interest by opposite parties in pursuing the revision, it was again dismissed on 18.07.2024.

8. Learned counsel for the revisionists next submitted that at present, no suit or proceedings relating to title over the disputed plot is pending in any court. The determination of title regarding the said property has already been made by the court.

9. In view of the above submissions, learned counsel for the revisionists prays for remitting the matter to the Sub-Divisional Magistrate, Lambhua to decide the matter afresh in light of the grounds taken in the supplementary affidavit in which the revisionists have claimed that the

title over the land in dispute has already been adjudicated and no title suit is pending before any court.

10. As according to extracts of Khatauni filed as Annexure No. 1, it appears that the respondents are recorded tenure holder of the land in dispute. In the proceedings under Section 145 CrPC, the question of title is not to be adjudicated by the Executive Magistrate. He has to decide the question of possession and immediate dispossession of a party over or from the property in question. Consequently, the impugned order passed by the learned Sub-Divisional Magistrate, Lambhua is set aside and the matter is remitted to the learned Sub-Divisional Magistrate to decide the Original Case under Section 145 Cr.P.C. afresh in light of the grounds taken in the supplementary affidavit after giving opportunity of hearing to both sides within a period of six months from the date of production of certified copy of this order. A copy thereof will be attached with the order.

11. The revision stands **allowed** subject to the aforesaid directions.

(Ram Manohar Narayan Mishra,J.)

June 18, 2026

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