Before M. M. Punchhi, & K. S. Tiwana, JJ.

PURAN,—*Petitioner.*

versus

KAPOORA and others,—*Respondents.*

Criminal Misc. No. 4469-M of 1978.

September 30, 1980.

Code of Criminal Procedure (II of 1974)—Sections 145 and 146—Dispute as to immoveable property—Proceedings initiated under section 145 and preliminary order passed—Magistrate directing attachment of the property under section 146—Proceedings under section 145—Whether could continue after such attachment—Possession of the attached property—Whether could be delivered by the Magistrate to the party found entitled thereto under section 145(4) after releasing the same from attachment.

Held, that when a Magistrate attaches the property considering the case to be one of emergency, he is bound thereafter to decide the question whether any and which of the parties at the date of the preliminary order is in possession of the subject of dispute and in case he decides that one or the other party was in such possession, he must release the attached property in its favour. The Magistrate's jurisdiction does not come to an end as soon as an attachment is made on the ground of emergency and that a Magistrate has further jurisdiction in the matter which is not relegated to the Civil Court.. It is only in the second set of contingencies when he decides that none of the parties was on the date of the preliminary order in possession or if he is unable to satisfy himself as to which of them was in such possession of the subject of dispute, alone can he not only attach the subject of dispute but keep effective the attachment made earlier in the case of emergency until a competent court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof. (Paras 5 & 12).

Md. Muslehuddin and another v. *Md. Salahuddin*, 1976 Criminal Law Journal 1150.

Dandapani Pala and others v. *Madan Mohan Pala and others*, 1976 Criminal Law Journal 2014.

Biswesswar Pattnaik v. *Rahas Bihari Naik*, 1977 Criminal Law Journal (NOC) 232.

Hari Choudhary and others v. *Ram Lakhan Tewari and others*, 1977 Criminal Law Journal (NOC) 254.

Mansukh Ram v. *The State and another*, 1977 Criminal Law Journal, 563.

Chandi Prasad and others v. *Om Parkash Kanodia and others*, 1976 Criminal Law Journal 209.

Hakim Singh and others v. *Girwar Singh and others*, 1976 Criminal Law Journal 1915.

DISSENTED FROM.

Case referred by Hon'ble Mr. Justice M. M. Punchhi, on 28th July, 1980 to a larger Bench for decision of an important question of law involved in the case. The larger Bench consisting of Hon'ble Mr. Justice K. S. Tiwana and Hon'ble Mr. Justice M. M. Punchhi, finally decided the case on merits on 30th September, 1980.

Petition under section 482 read with section 401, Cr. P.C. praying that the petition be allowed and the impugned orders Annexures P/2 and P/3 and the order passed on 31st July, 1978 be quashed as also the proceedings initiated under section 145 be quashed and further praying that during the pendency of this petition, status quo *regarding possession be maintained and operation of the impugned order dated 31st July, 1978 be stayed.*

C. B. Goel, Advocate, *for the Petitioner.*

Ashok Kumar, Advocate, *for the Respondents.*

JUDGMENT

M. M. Punchhi, J.

(1) The question which calls for determination in this composite petition under sections 482 and 401 of the Code of Criminal Procedure, 1973 (hereinafter called the Code) is whether an Executive Magistrate who has put property under attachment under section 146 of the Code, can lift attachment and release possession in favour of the party whom he finds under section 145(4) to be in possession thereof on the date of the preliminary order under section 145 (1) of the Code.

(2) Facts of the case, when summarised, disclose that a parcel of agricultural land measuring 26 Kanals 8 Marlas situated at village Manas, tahsil Kaithal, district Kurukshetra, became the bone of contention between Puran and others known as the first party

and Kapoora and others known as the second party. The Station House Officer, Police Station Sadar Kaithal, reported on 17th April, 1978 that there was a dispute regarding possession over the said land between the two parties which was likely to lead to breach of peace especially when crops standing thereon were ripe for harvest. The police also requested that till the possession of either party was decided, the land and the standing crops be put under attachment. This report known as Kalandra is Annexure P 1 to the petition. On that report, the Sub-Divisional Magistrate, Kaithal assumed jurisdiction and initiated proceedings under section 145 of the Code by passing a preliminary order, dated 27th April, 1978 (Annexure P. 2). Agreeing with the police Kalandra, he considered it essential to attach the land and the standing crop of wheat thereon, without specifically sanctioning it to be a case of emergency, and made it over to the Tahsildar, Kaithal as receiver till final decision of the complaint. Consequential order (Annexure P. 3) was communicated to the Station House Officer to effect the attachment till the decree or order of a competent Court determines the right of the parties and hand it over in the possession of the Tahsildar, Kaithal, who was the receiver. On issuance of notice to the parties, they put in their respective written statements and each party put in respective claim that it was in actual possession of the subject of dispute. The Sub-Divisional Magistrate then conducted inquiry under sub-section (4) of section 146 of the Code and came to the conclusion that the second party, that is Kapura and others, were in physical possession of the disputed land on the day when preliminary order under section 145 of the Code was passed. That order is dated 31st July, 1978, which does not bear any annexure but may be termed as Annexure P. 4. All these orders have been challenged in this petition.

(3) The learned counsel for the petitioner attacked orders, Annexures P. 1 to P. 3, on the grounds that the preliminary order under section 145 of the Code was bereft of the grounds of the Sub-Divisional Magistrate being satisfied that there was a dispute over land likely to cause breach of peace (Annexure P. 2) and that the attachment order was violative of the provisions of section 146 of the Code since the Sub-Divisional Magistrate had expressed his inability to satisfy himself as to which of the two parties was in actual possession at the preliminary stage without going into evidence (Annexure P. 3). It was also challenged that neither in

Annexure P. 2 nor in Annexure P. 3 did he specify that the case was of an emergent nature requiring the land and the crops to be attached. Additionally, it was contended that *vide* Annexure P. 3, the possession had been made over to the receiver for his holding it till the matter was decided by a decree or order of a competent Court, meaning thereby a civil Court, and yet in the final order he had ordered passing over of the possession to the second party. Now, it is too late in the day for the petitioner to have questioned either the preliminary order or the consequential attachment order (which is in modified terms of Form 26) after having participated in the proceedings and suffered the final order (Annexure P. 4). The petitioner sat on the fence on the expectancy that the ultimate decision would go in their favour. Any suggested error or irregularity in the preliminary or the attachment order cannot be corrected, reversed or altered when the final order has been passed unless it can be shown to the Court that a failure of justice has in fact been occasioned thereby. That is the mandate of section 465 of the Code. The Court is required to have regard to the fact that whether the objection could and should have been raised at an earlier stage of the proceedings. The petitioner had ample opportunity to question the legality and propriety of orders contained in Annexures P. 2 and P. 3 at the initial stages of the proceedings. Having suffered the final order, it cannot be said that there has occasioned a failure of justice by any suggested error or irregularity in the impugned orders.

The next challenge of the learned counsel was to the final order, Annexure P. 4. It was contended that when the Sub-Divisional Magistrate had attached the property in dispute, he had no jurisdiction to undertake an inquiry under sub-section (4) of section 145 of the Code and he was required to restrain his hands to let the civil Court decide the question of possession. It was further contended that even if he had undertaken an inquiry and come to the finding, he could not order delivery of possession of the disputed land to the second party having ordered,—*vide* Annexures P. 2 and P. 3, the receiver to hold the property till the decree or order of a Court of competent jurisdiction. This argument was based on the provisions of section 146 of the Code which may be reproduced herein :—

> "146. (1) If the Magistrate at any time after making the order under sub-section (1) of section 245 considers the

case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908:

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just."

Reliance was placed on *Md. Muslehuddin and another* v. *Md. Salahuddin* (1), *Dandapani Pala and others* v. *Madan Mohan Pala and others* (2), *Bisweswar Pattnaik* v. *Rahas Bihari Naik* (3).

(1) 1976 Crl. Law Journal 1150.

(2) 1976 Crl. Law Journal 2014.

(3) 1977 Crl. Law Journal (NOC) 232 (Orissa).

Hari Choudhary and others v. *Ram Lakhan Tiwari and another* (4) *and Mansukh Ram* v. *The State and another* (5) to contend that the Magistrate after attachment had no jurisdiction to proceed further in the matter. The aforesaid decisions are of various High Courts but none of them is of this Court.

(4) In *Mansukh Ram's case* (supra) which is the latest in time, Kalyan Dutta, J. of the Rajasthan High Court observed as under:—

> "Proceedings under section 145(1), Criminal Procedure Code come to an end after an order of attachment is made under section 146(1) on the ground of emergency. After the attachment of the subject of dispute a proper inquiry into the question of possession as contemplated by sub-section (4) of section 145, new Criminal Procedure Code is of no use, because the attachment will subsist even after the final order which may ultimately be passed after such inquiry into the question of possession and the Sub-Divisional Magistrate will have no power to restore the successful party to possession. The Sub-Divisional Magistrate after having once attached the subject of dispute on the ground of emergency is, therefore, not empowered to proceed further under section 145, new Criminal Procedure Code except for the purpose of ascertaining whether there is any dispute or whether there is no longer any likelihood of breach of the peace with regard to the subject of dispute, because, in that case he can withdraw the attachment at any time."

In *Dandapani Pala's case* (supra), a Division Bench of the Orissa High Court observed as follows:—

> "Section 146 contemplates three contingencies in which attachment of the property may be ordered. The Parliament has equated the first contingency, namely, after passing of the preliminary order if the Magistrate is satisfied that it is a case of emergency, at par with the

(4) 1977 Crl. Law Journal (NOC) 254 (Patna).

(5) 1977 Crl. Law Journal 563.

other two contingencies which can arise only after completion of the inquiry. The proceeding under section 145 terminates. The dispute before the Criminal Court comes to an end and which party is entitled to possession has to be determined by the competent Court."

In *Md. Muslehuddin's case* (supra), a Single Bench of the Patna High Court observed as follows :—

"The Magistrate can withdraw attachment under proviso to section 146(1) only when he is satisfied that there is no longer any likelihood of breach of the peace in regard to the subject of dispute. In such a case the section 145 proceedings itself will have to be dropped and no question of deciding as to which of the parties was in possession at the relevant time would arise. The property after attachment becomes *custodia lenis* and, therefore, provision has been made in the Code, to make such arrangement as is necessary and proper for looking after the property or to appoint a receiver thereof. If the Magistrate could legally attach the property under section 146, he could not legally proceed under section 146 to decide the question of possession."

In *Hari Choudhary's case* (supra), a head note from a judgment of a Single Judge of the Patna High Court reads as under :—

"Criminal Procedure Code (1974), sections 146(1) and 145 (4)—Scope—Attachment on ground of emergency. Magistrate has to stay the proceeding and is not competent to hold enquiry under section 145(4) as to who is in actual possession of property—Magistrate has to await the decision of Competent Civil Court."

In *Bisweswar Pattnaik's case* (supra), a head note prepared from the judgment of a Single Judge of the Orissa High Court reads as under :—

"Criminal Procedure Code (1974), sectioon 146(1)—Attachment of property by Magistrate—Magistrate not empowered further to decide as to which party was in possession

and to vacate the attachment—Parties to seek remedy in Civil Court."

(5) In *Sardari Lal* v. *State of Punjab* (6) I unaware of the afore-quoted precedents, have taken a contrary view and have held that when a Magistrate attaches the property considering the case to be one of emergency, he is bound thereafter to decide the question, whether any and which of the parties at the date of the preliminary order is in possession of the subject of dispute and in case he decides that one or the other party was in such possession, he must release the attached property in its favour. It is only in the second set of contingencies, when he decides that none of the parties was on the date of the preliminary order in possession or if he is unable to satisfy himself as to which of them was in such possession of the subject of dispute, alone can he not only attach the subject of dispute but keep effective the attachment made earlier in the case of emergency until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof. My said view is suggested to be in conflict with the above-referred to judgments of the various High Courts and was suggested to deserve reconsideration.

(6) Now it may be seen that sections 145 and 146 of the Code occur in sub-head 'D' of Chapter X pertaining to disputes as to immoveable property. Changes have been brought about by the insertion of these two sections in the new Code of 1973 in substitution of sections 145 and 146 of the old Code of 1898. It is noteworthy that under section 145(4) third proviso of the old Code, if the Magistrate considered the case to be one of emergency, he could attach the subject of dispute pending his decision under that section. Under section 146 of the old Code, if the Magistrate opined that none of the parties was then in such possession or was unable to decide as to which of them was then in such possession of the subject of dispute, he could attach it, if not already attached, and draw up a statement of facts of the case and forward the record of the proceedings to a civil Court of competent jurisdiction to decide the question whether any and which of the party was in possession of the subject of dispute on the date of the preliminary order; and he was required to direct the parties to appear before the civil Court on the

(6) Cr. M. 1900 M/80, decided on 9th May, 1980.

date to be fixed by him. Now in the new Code, the power of the Magistrate to refer the matter to the Civil Court has been withdrawn. While under section 146(1B) of the old Code, the Civil Court was required to transmit its finding together with a record of the proceedings to the Magistrate by whom the reference was made; and the Magistrate was bound to dispose of the proceedings under section 145 in conformity with the decision of the civil Court, but in the new Code, there is no such requirement. It appears to me that now the new Code preserves the procedure for a Magistrate to decide the dispute vis-a-vis possession as to immovable property; whether be it a case of emergency requiring attachment or to be one not involving any emergency of the kind. Subsection (4) of section 145 requires the Magistrate "if possible" to decide whether any or which of the party was in possession of the subject of dispute. The Parliament in its wisdom have conceived of both the situations; that it may be possible for a Magistrate to decide the question and also that it may not be so possible. It appears to me that joint reading of sections 145(4) and 146(1) and in particular the expression "or if he decides that none of the parties ..... or if he is unable to satisfy ———" occurring in the latter section leads to the irresistible conclusion that it is in the process of the final decision alone he can come to the conclusion that it is possible for him to decide as to which of the party was in possession, or he chooses to decide that it was not possible for him to hold that any of the parties or he was otherwise unable to satisfy himself as to which of them was then in such possession. Disputes relating to immovable property which the Magistrate could decide and conclude, whether any and which of the parties was on the date of the preliminary order in possession of the subject of dispute, would remain within his jurisdiction despite the land being attached as a case of emergency. With due respect to the views expressed by the Hon'ble Judges of the High Courts in the judgments aforesaid, I regret my inability to subscribe to their views. I am fortified further by statutory form No. 26 prescribed in the new Code which pertains to section 146 which is in the following terms:—

> "Whereas it has been made to appear to me that a dispute likely to include a breach of the peace existed between (describe the parties concerned by name and residence, or residence

only if the dispute be between bodies of villagers) concerning certain (state concisely the subject of dispute) situate within the limits of my jurisdiction and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (the subject of dispute), and whereas, *upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (the subject of dispute) (or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid)* (emphasis supplied);

"This is to authorise and require you to attach the said (the subject of dispute) by taking and keeping possession thereof and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution."

(7) It is patent from the language emphasised in the statutory form that it is only after due inquiry into the said claims that a Magistrate can in a non-emergency case authorise the attachment of the subject of dispute. And due inquiry into the said claims would obviously be an inquiry as contemplated under sub-section (4) of section 145. Thus it appears that emergent attachment in the first contingency noticed by the Orissa High Court in *Dandapani Pala's case* (supra) is a class apart and is to be operative till the Magistrate can determine the question of possession, and in case he cannot so determine, to continue till the matter is decided by a competent Court. The latter two contingencies acquire the character when the Magistrate wants to freshly attach the subject of dispute on account of his inability to determine the question of possession. The property in either situation becomes *custodia legis* and is supposed to be kept as such but subject to the interim or final orders passed by the civil Court in relation thereto as envisaged under sub-section (2) of section 146; the only exception being the one forthcoming in proviso to section 146(1) of the Code when the Magistrate considers that there is no longer a likelihood of any breach of peace and that the attachment may be withdrawn. A view to the contrary taken would stultify the very purpose of sections 145 and 146. The

powers of a Magistrate would then be akin to the whim of an eagle who can with one swoop snatch and deprive the parties of the property and toss them overboard to get their claims decided before a civil Court; each party waiting for the other to be the plaintiff and it may well be that no one ever enters and if one does to remain how long in the civil Court. Such an impasse would not be conceived of by the law-framers. Harmonious construction of the aforesaid two sections can only be achieved if it is spelled therein that the power to decide the question as to which of the parties was in possession of the subject of dispute under sub-section (4) of section 145 remains within the jurisdiction of the Magistrate irrespective of his having considered the case to be one of emergency attaching the subject of dispute.

(8) The aforesaid discussion embodies a conflict of views. The questions discussed are of far reaching importance and their prompt answers would be necessary to settle the law and guidelines for the executive Courts dealing with cases coming up under section 145, Criminal Procedure Code. Let these questions be decided by a Larger Bench as also the case. Place the papers before my Lord the Chief Justice for purposeful orders.

M. M. Punchhi, J.

(9) I had referred this matter to a larger Bench,—*vide* my order, dated July 28, 1980 wherein I had posed questions of law which appear to me of far-reaching importance. Under orders of Hon'ble the Chief Justice, the matter has been placed before a Division Bench, of which I am a member, and have the opportunity to author the judgment of the Division Bench.

(10) Facts giving rise to the petition need not be repeated and may be taken from the referring order. Challenge to orders, Annexures P. 1 to P. 3, made before me in the Single Bench has not been repeated here before us and thus the challenge thereto so met in the referring order be treated to have been met by this order. The primary and sole question which remains to be considered is whether an Executive Magistrate, who has put property under attachment under section 146 of the Code of Criminal Procedure, 1973, becomes *functus officio* and cannot proceed with the inquiry under section 145(4) to determine as to which party was in possession of the

subject in dispute on the date of the preliminary order under section 145(1) and as a consequence lift attachment and release possession of the property in favour of the successful party.

(11) I had taken the view that an Executive Magistrate after attaching property under section 146 of the Code of Criminal Procedure, as a case of emergency, was bound thereafter to decide the question, whether any and which of the parties on the date of the preliminary order was in possession of the subject of dispute and if he could decide that question, he must release the attached property in favour of the successful party. See in this connection *Sardari Lal* v. *State of Punjab,* (supra) decided by me. The contrary view taken in *Md. Muslehuddin and another* v. *Md. Salahuddin,* (supra), *Dandapani Pala and others* v. *Madan Mohan Pala and others,* (supra), *Bisweswar Pattanik* v. *Rahas Bihari Naik,* (supra), *Hari Choudhary and others* v. *Ram Lakhan Tiwari and others,* (supra), and *Mansukh Ram* v. *The State and another,* (supra), throw a doubt to the correctness of my view. But now my learned brother K. S. Tiwana J. (who is with me as a member of the Bench) has drawn my attention to *Satguru Jagjit Singh, etc.* v. *Jeet Kaur etc.* (7), who took the view which could well be superimposed on the tentative view expressed by me in the referring order. My learned brother had the advantage of bypassing the afore-referred to judgments of the various High Courts, with which I was confronted not only by his own reasoning but with observations forthcoming in *Chandu Naik and others* v. *Sitaram B. Naik and another* (8), and the view of a Division Bench of the Bombay High Court in *Gajitan A. D. Souza and another* v. *The State of Maharashtra and others* (9). Our views on the question tally. They are in accord with *Ram Adhin* v. *Shyama Devi and others* (10), (a Single Bench judgment of Allahabad High Court), *Abdul Sattar* v. *State of Bihar and others* (11) (a Single Bench judgment of Patna High Court), *Kshetra Mohan Sarkar* v. *Paran Chandra Mandal,* (12), and *Thokchom Khoyon Singh* v. *Moirangmoyun Bira Singh and another,* (13), (two Division Bench judgments of

(7) 1978 Current Law Journal (Cr.) Pb., and Haryana 108.
(8) A.I.R. 1978 S.C. 333.
(9) 1977 Cr. L. Journal 2032.
(10) 1977 Cr. L. Journal 453.
(11) 1979 Cr. L. Journal 389.
(12) 1978 Cr. L. Journal 936.
(13) 1978 Cr. L. Journal 1511.

Gauhati High Court). Other judgments which add to the contrary view above-indicated which were brought to our notice are *Chandi Prasad and others* v. *Om Parkash Kanodia and others,* (14) (a Single Bench judgment of Allahabad High Court) and *Hakim Singh and others* v. *Girwar Singh and others,* (15) (a Single Bench judgment of Delhi High Court).

(12) To crown it all, the Supreme Court has settled the question in *Mathuralal* v. *Bhanwarlal and another,* (16). Their Lordships of the Supreme Court after a comparative study of sections 145 and 146, as they stood before and after 1955 under the old Code of Criminal Procedure, and as they now stand under the new Code of Criminal Procedure, 1973, came to the conclusion that the Magistrate's jurisdiction does not end at the point when an attachment is made on the ground of emergency. It was spelled out that the provisions of sections 145 and 146 of the new Code were substantially the same as the corresponding provisions were before 1955 amendment of the Old Code. It has now been categorically held in the aforesaid case that the Magistrate's jurisdiction does not come to an end as soon as an attachment is made on the ground of emergency and that a Magistrate can have further jurisdiction in the matter which is not relegated to the Civil Court. Their Lordships observed:—

> "Sections 145 and 146 of the Criminal Procedure Code together constitute a scheme for the resolution of a situation where there is a likelihood of a breach of the peace because of a dispute concerning any land or water or their boundaries. If section 146 is torn out of its setting and read independently of section 145, it is capable of being construed to mean that once an attachment if effected in any of the three situations mentioned therein, the dispute can only be resolved by a competent Court and not by the Magistrate effecting the attachment. But section 146 cannot be so separated from section 145. It can only be read in the context of section 145. Contextual construction must surely prevail over isolationist construction. Otherwise, it may mislead ..... In a case of emergency, a Magistrate may attach the property, at any time after

(14) 1976 Cr. L. J. 209.
(15) 1976 Cr. L.J. 1915.
(16) 1980 Cr. L. Journal 1.

making preliminary order under section 145(1). There is no express stipulation in section 146 that the jurisdiction of the Magistrate ends wih the attachment. Nor is it implied. Far from it, the obligation to proceed with the enquiry as prescribed by section 145, sub-section (4) is against any such implication. The only provision for stopping the proceeding and cancelling the preliminary order is to be found in section 145(5) and it can be on the ground that there is no longer any dispute likely to cause a breach of the peace. An emergency is the basis of attachment under the first limb of section 146(1) and if there is an emergency, no one can say that there is no dispute likely to cause a breach of the peace."

(13) The authoritative pronouncement of the Supreme Court completely answers the questions posed and settles the controversy raging in the various High Courts at rest. There is no room for any other argument.

(14) The learned Sub-Divisional Magistrate after conducting an inquiry under sub-section (4) of section 145 of the Code of Criminal Procedure came to the conclusion that Kapoora and others were in physical possession of the disputed land on the day when the preliminary order under section 145(1) of the Code was passed. The said order is based on appreciation of evidence and consideration of all relevant material. The learned counsel for the petitioner half-heartedly tried to challenge the correctness of those findings. The Sub-Divisional Magistrate went thoroughly in the matter and even inspected the spot. He arrived at his finding through a detailed and well written order which we had the occasion to read with the learned counsel. No case for interference either under section 401 or under section 482 of the Code of Criminal Procedure could be made out calling for interference by this Court. Though the order has been drawn by a Sub-Divisional Magistrate, but the care and concern with which it has been done is patently with the attributes of a judicial Court.

(15) Resultantly, this petition fails and is hereby dismissed.

Kulwant Singh Tiwana, J.—I agree.

N. K. S.