

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

248

CRWP-12015-2022

Date of decision : 17.07.2023

Gurcharan Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Ashok Goel, Advocate for the petitioner

Mr.HS Sullar, Sr.DAG, Punjab

None for respondent Nos.5 to 8

AMAN CHAUDHARY, J.

1. The prayer in the present petition is for directing respondent Nos. 2 to 4 to protect life and liberty of the petitioner and her family at the hands of respondent Nos.5 to 8 and also to take action on her representations dated 12.12.2022/ 13.12.2022.

2. Learned counsel submits that respondent Nos.5 to 8 are the brother and family members of the late husband of petitioner. After a family partition of the property, they were residing in their peaceful possession and when the petitioner constructed the boundary wall of her house for security reasons, the said respondents did not raise any objection. However, later on, they started demanding money from her without any reason and also tried to interfere in her life and liberty and demolished the wall that had been raised to a height of 5 feet. She also submitted a representation to Deputy Superintendent of Police, Kharar in this

regard.

3. Learned State counsel makes a reference to status report dated 13.02.2023 filed by way of affidavit of Deputy Superintendent of Police, Sub Division, Kharar-I, District SAS Nagar to submit that the application submitted by the petitioner was duly considered and filed as it relates to a civil dispute, for which he refers to the relevant paras, which read thus:

“7. That during the course of enquiry of the aforesaid complaint by the deponent, the son of the petitioner namely Fateh Singh had come present before the deponent and stated that the complaint given by her mother be treated as had statement and refused to record statement. Apart from this, the joint statement of Gulraj Kaur, Surmukh Singh, Rajinder Kaur and the statement of Jagtar Singh were recorded.

8. That from the enquiry conducted, the dispute between the petitioner and the private respondents related to the ownership of the property, therefore, the petitioner was advised to follow up her case before the Revenue Department or the Hon'ble Court, however, as regards the threat perception raised by the petitioner, the preventive action stands initiated. Accordingly finding no further action required by the police to be taken on the aforesaid representations, it had been recommended to file the aforesaid complaints in the office by the deponent vide report dated 17/12/2022, which was consigned to the record room by the SSP, District SAS Nagar. The true translated copy of the report of the deponent is being attached herewith as Annexure R-1/T for the kind consideration of this Hon'ble Court.”

4. Another affidavit dated 18.05.2023 of Mrs. Rupinderdeep Kaur Sohi, PPS, Deputy Superintendent of Police, Sub Division Kharar-I, District S.A.S Nagar was filed alongwith report Annexure R-1/T. The relevant paras of the said affidavit read thus:

“II. That pursuant thereto, the SHO, PS Sadar Kharar got the enquiry into the aforesaid representation conducted through ASI Davinder Singh and submitted his report before the deponent stating therein that the petitioner is having land situated in Village Batala within the red line (Lal Lakir) and when, the complainant was raising construction on the said land then, the 2nd party Jagtar Singh tried to show their

ownership on the said land regarding which, the complainant had given a complaint before the deponent on 06/12/2022 and accordingly, the proceedings under section 107/151 Cr.P.C. were initiated against Jagtar Singh and others vide DDR No. 21 dated 11/12/2022. In the representation dated 13.12.2022, the petitioner has levelled the allegations that on 11/12/2022, the goons had demolished their wall which they had constructed 5 feet but during enquiry, it came to light that Jagtar Singh, his wife Sarabjit Kaur and son Yuvraj Singh and Tejveer Singh were lodged in the police station at night time due to the proceedings conducted under section 107/151 Cr.P.C. and therefore, the allegations of the said persons climbing the wall of the petitioner are not believable. Apart from this, during the recording of statements at the time of enquiry, the complainant did not mention anything with regard to the demolishing of the wall and nor has the complainant produced any witness in this regard which prove the said allegation. In fact, both the parties were found to be having a dispute over land situated in Red Line (Lal Lakir) and both the parties are showing their ownership over the said property and the complainant is also seeking police help for raising construction, which is outside the jurisdiction of police Department. Accordingly, the complainant was advised to pursue her case before the Ld. Court or SDM.

III. **xx** **xx** **xx**

4. That it is respectfully submitted that the application of the petitioner dated 13/12/2022 (Annexure P-7) has been duly looked into wherein, the dispute between the petitioner and the private respondents has been found to be with regard to the land situated within Red Line (Lal Lakir), which is civil in nature and thus, finding no action required to be taken on the said representation by the police, the said application dated 13/12/2022 (Annexure P-7) was consigned to the record room. It is submitted that the appropriate action has already been taken on the said application dated 13/12/2022 (Annexure P-7), in accordance with law.”

5. The report, Annexure R-1/T, appended therewith reads thus:

“It is requested that the inquiry of the complaint mentioned in the subject has been get done from ASI Davinder Singh. The inquiry officer asked the complainant to get record her statement in the inquiry of the complaint and the stated that her Complaint should be treated as her statement. Jagter singh S/o Harbans Singh R/o Badala pained in the inquiry and his statement was recorded. Besides this the statements of the respectables of villege Badala and of the surrounded by residing persons were recorded which are duly annexed with the report. Opposite party Jagtar singh stated in this statement

that Gurcharan Kaur is his aunt (Massi) and her Son Fateh Singh, Bhoop singh and her daughters want to take the forceable possession of the land and the allegations regarding demolishing of wall raised against him by Gurcharan kaur are totally false. Besides this the respectables of the village Badala stated in their Statements that there is dispute of land falling in "Laal Lakeer" is there between Jagtar Singh etc and Gurcharan kaur. But they did not stated anything in their statement regarding demolishing of wall by jagtar singh and his family members.

Final Report-

It is found from the inquiry that complainant Gurcharan Kaur widow of Amrik singh Rlo Badala is having a land in "Laal Laken" at willage Badala. When she started raising at the above said place then the opposit party Jagtar singh etc were showing their right upon the same. Then on the complaint of the complainant to DSP Kharar-1 dated 06-12-2022, on the orders of DSP, the proceedings of 107/151 of Crpc through DDR No 31 dated 11-12-2022 were initiated against Jagtar Singh etc. The complainant parety alleged that on 11-12-2022 the Gunda elements demolished thell wall which was raised upto 5 feet but during inquiry it was found that on 11-12-2022 the opposite party consisting of Jagtar Singh his wife Sarabjit kaur and sons Yuvraj Singh, Tejvir singh were kept in palice station at night because of the proceedings of 107/151 of CrPC. Therefore, the contention of the Cemplament regarding demolishing of her wall by the opposet party Is not believable. Besides this, there is no mentioning regarding the same in the statements recorded during the inquiry and nor complainant parety produced any evidence of witness for the same from which the factum of demolishing of wall as alleged is proved. In fact, both the parties are having dispute of a land falling in "Laal Lakeer" and both the parties are showing their right upon the same. The Complainant is making player in her complaint that the the police should help her in raising of the construction of the wall which does not fall in the jurisdiction of the palice. The Complainant party was advised to approach the ine Hon'ble court or the SDM Sahib for the same. Regarding maintenance of peace, the action has already been taken i agree with the inquiry of ASI Davinder Singh and recomended to file the complaint as there is no truth the same."

6. In the short reply by way of affidavit dated 31.05.2023 alongwith Annexures R-1 and R-2, filed on behalf of respondent Nos.5 to 8, it has been stated that a civil suit filed by respondent No.5 against the petitioner and others for

permanent injunction is also pending adjudication.

7. Keeping in view the aforesaid facts, no further orders are required to be passed as the purpose of filing the present petition stands achieved. However, respondent Nos.2 to 4 are directed to look into the prayer of the petitioner as regards the protection of her life and liberty as well as that of her family members is concerned, which even otherwise is the bounden duty of the State. Accordingly, the present petition is disposed of, leaving the petitioner with a liberty to avail of alternate remedy, if any, available to her in accordance with law.

17.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes	/	No
Whether reportable	:	Yes	/	No