

**Court No. - 39**

**Case :- CIVIL MISC REVIEW APPLICATION No. - 36 of 2021**

**Applicant :- Shiv Singh And 2 Others**

**Opposite Party :- Sri Abdul Kalam And 7 Others**

**Counsel for Applicant :- Sanjeev Kumar Pandey**

**Counsel for Opposite Party :- Ramendra Pal Singh**

**Hon'ble Saumitra Dayal Singh,J.**

1. Heard Shri Sanjeev Kumar Pandey, learned counsel for the applicant in review and Shri Virendra Kumar Shukla, learned counsel for the opposite party (in the review).

2. Present review application has been filed with respect to the order dated 1.12.2020 passed on Contempt Application (Civil) No. 2821 of 2020 (Shiv Singh & 2 Ors. vs Shri Abdul Kalam, Sub Divisional Magistrate Sadar & 7 Ors.). For ready reference, that order is quoted below:

*"Case called out in the revised call. None present for the private non applicants.*

*Heard learned counsel for the applicants, Sri Sanjeev Kumar Pandey, learned counsel for the opposite party and the learned Standing Counsel.*

*Upon instructions, learned Standing Counsel stated that in view of the earlier order passed by the writ court and the proceedings undertaken on the present application, the state authorities have intervened and allowed the applicants to harvest their crop. Thus possession claimed by the applicants has been protected in accordance with the order dated 23.05.1986 of which contempt had been alleged.*

*The above position of fact has been candidly accepted by learned counsel for the applicants. He states that but for the late intervention made by the state authorities, the private non applicants were neither allowing the applicants to enter the land nor the applicants were being allowed to harvest their crop. At the same time, at present, the applicants claim to have harvested the crop and have possession over the land.*

*Sri Sanjeev Kumar Pandey, learned counsel for the opposite party would submit that there was no order of which contempt may have been alleged. In any case since the applicants do not wish to press this application there is nothing further to proceed with in the matter.*

*In such facts, no useful purpose would be served in keeping the present application pending or pursuing it any further.*

*Accordingly, the present application is consigned to record, leaving it open to the parties to contest their rights. All pleas are left open."*

3. Undeniably, present applicant (in review) was non-applicant in the contempt proceeding. For whatever reason, as described in the order dated 1.12.2020, the contempt proceeding was dropped against the present applicant (in review).

4. Therefore, I do not see what grievance may ever survive to the applicant to seek review of that order which is clearly to his benefit.

5. As to the further submission of the learned counsel for the applicant (in review) that on wrong statement made on behalf of the State authorities, possession came to be snatched from the present applicant and the same was handed over to the private respondents resulting in irreparable injury to the applicant (in review), I am not inclined to entertain the present review application. The grievance being now voiced by the applicant (in review), if at all, may give rise to a separate cause of action which the applicant (in review) may pursue in accordance with law.

6. Only this much is clarified if such action is brought by the applicant (in review), the observations made in the order dated 1.12.2020 may not stand in the way of the applicant as to the correctness of the fact allegations with respect to competing rights of the parties over the disputed land. Those proceedings may be dealt with and decided on its own merits, without being prejudiced by any observation made in that order.

7. Accordingly, the present review application is **dismissed**.

**Order Date :- 17.11.2023**

Prakhar