

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

COCP no.1806 of 2011(O&M)

Date of Decision : 08.09.2015

Bharat Pal Singh and another

....Petitioners

Versus

Girish Pal Singh and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Mr. A.K.Sinha, Advocate for the petitioners

Mr. I.S.Sidhu, Advocate for respondents no.1 and 2

Mr. Anmol Rattan Singh Sidhu, Sr. Advocate with
Mr. Rajesh Narang, Advocate for respondent no.3

MAHESH GROVER, J.

This is a petition alleging violation of the orders passed by this Court on 1.7.2011 in Civil Revision no. 3967 of 2011 with a prayer that the respondents be proceeded against for having wilfully disobeying the directions of this Court extracted herebelow:-

“In the meantime, respondents are restrained to hand over any part of the premises to the vendee.”

On request of the learned counsel for the petitioners, name of

respondent no.1 was directed to be deleted from the array of respondents while petition continues qua other respondents impleaded therein.

Learned counsel for the petitioners with reference to P-2 and P-5 contends that the order of this Court was duly communicated to the respondents but despite that possession was handed over to the vendee.

It may be noticed briefly that the dispute is between the shareholders of a property where some of the co-owners have sold their share alongwith possession to the present respondent no.3 Rajesh Kumar.

Learned counsel for the petitioners contends that subsequent to the passing of the order an attempt was made to serve the order upon the respondents who refused to take the same on the pretext that they would require consultation with their counsel. With reference to Annexures P-2 and P-5 which are copies of the DDRs recorded by the police it is submitted that reading of these documents would imply knowledge of the order to the respondents who despite that violated the terms thereof by parting with the possession in favour of the vendee.

The respondents in turn dispute this to contend that after the sale deed was executed on 21st April, 2011 the possession was given immediately thereof which is also indicated from separate affidavits executed by the vendors to that effect. Annexures R-3/5 and R-3/6 are stated to be testimony to this effect. Apart from the above a reference has also been made to an inquiry conducted by Chief Judicial Magistrate (Annexure R-2/2) which also forms a part of the order

passed in COCP no. 207 of 2012 inter se between the same parties and is extracted herebelow:-

“In view of the foregoing reasons and discussions and keeping in view the entire material available on record, the undersigned is of the view that actual possession of the disputed portion was delivered to Rajesh Kumar on 21.4.2011 on the date of execution and registration of sale deed. There was no order of status quo inter se amongst Satjit Kaur, Girish Pal Singh and Rajesh Kumar vendee. No role was played by respondents no. 2 and 3 to deliver the possession in favour of respondent no.1. Therefore, the undersigned is of the view that there was no violation of order dated 22.12.2011 by the respondents passed by the Hon'ble High Court in the Civil Revision No. 3967 of 2011.”

It is thus evident that there is a pointer to conflicting material on record by both the parties regarding the factum of possession being delivered to the vendee. The report of the Chief Judicial Magistrate however is categoric to this extent and defines the date of possession as 21.4.2011 whereas the plea of the petitioners based on the recording of the DDRs is ambivalent as it does not satisfy conclusively either the effective communication of the order or the date of the parting of the possession. The petition too is eloquently silent in this regard as no date of parting of possession to respondent no.3 has been mentioned.

If that be so then the Court would be reluctant to proceed against the respondents on the premise that they have wilfully disobeyed the orders of this Court which only mandated a restraint on delivery of possession to the vendee when there is nothing to conclusively state the imparting of knowledge of orders of the Court to the respondents and further the date of parting of possession.

Finding no conclusive material to indicate violation of the orders, I do not deem it fit to intervene in this petition and the same is hereby dismissed.

September 08, 2015
rekha

(Mahesh Grover)
Judge