

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

CR No. 1423 of 2013 (O&M)
Date of decision: April 23, 2015

Nirmal Kaur

...Petitioner

Versus

Simarjit Kaur and others

..Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. A.S. Khinda, Advocate,
for the petitioner.

None for the respondents.

K. KANNAN, J.

1. The revision petitioner is complaining against the order punishing him for contempt of disobedience of the court order of injunction. The petitioner concedes that he acted in defiance of the order of injunction against sale of property by a transaction dated 20.11.2002 after the court had issued an order of injunction on 17.9.2002. The justification now pleaded is that the suit was ultimately dismissed and the injunction order cannot operate to the plaintiff to complain of disobedience. In Dalip Singh & another Versus Balwinder Singh and another 2009 (4) RCR (Civil) 527, this court was holding that the interim order passed by a court will merge finally in dismissal and in that light, it cannot be said that there is any actionable wrong for being proceeded under Order 39 Rule 2 A of CPC.

2. I am afraid the proposition cited by the counsel is too wide, which even the judgment would not support. The disobedience is of an order which was required to be enforced at the relevant time. The fact that there was a variation of the order subsequently by a final adjudication could perhaps operate as a mitigating factor but it can never relieve the

consequences and lend premium to disobedience. This aspect has been brought through the judgment of the Supreme Court in Tayabhai M. Bagasarwalla Versus Hind Rubber Industries Pvt. Ltd. AIR 1997 Supreme Court 1240. The court was holding that interim orders passed shall be effective, no matter that the court ultimately found that it had no jurisdiction to try the suit. The interim order undoubtedly will come to an end only with the decision that the court has no jurisdiction, but it would not be right to say that the court had no jurisdiction to pass an order pending decision and the question of jurisdiction and if there are violation committed during such an order, it cannot be actionable. The same position was reiterated in Samee Khan Versus Bindu Khan AIR 1998 Supreme Court 2765. The court said that even if an order of injunction subsequently set aside, the disobedience does not get erased and the contemner can still be punished for disobedience. The court was holding that the court can order attachment as well as order of arrest, if the obstruction is removed and in the light of apology tendered it may not be necessary to punish the guilty of disobedience.

The only mitigation that I can apply to the order already passed is to direct the petitioner to pay the respondents the cost of litigation, which I assess as ₹25,000/-, in lieu of the simple imprisonment ordered for a period of one month from the date of receipt of copy of this order. The finding that the petitioner is guilty of disobedience of the court order is retained but the sentence is modified as per direction for cost as litigation in the manner, referred to above.

April 23, 2015
prem

(K.KANNAN)
JUDGE

