

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

CRM-M No. 16002 of 2011(O&M)

Date of Decision :09.02.2015

Rajbir Singh

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr.P.K.Bansal, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl.AG, Punjab.

Mr.Deepak Arora, Advocate for respondent No.4.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This petition has been filed against the order dated 28.04.2011 whereby the Sub Divisional Magistrate, Dera Baba Nanak appointed Naib Tehsildar-cum-Executive Magistrate, Dera Baba Nanak as receiver of the land in dispute.

Learned senior counsel appearing on behalf of the petitioner has raised two primary contentions. The first is that no notice was issued to the

petitioner before receiver was appointed. His second contention is that on the date when the application was filed by the respondent there was a subsisting injunction order against his predecessor-in-interest whereby the civil court had protected the possession of the petitioner and the Magistrate could not have eroded that judgment and order of the civil court. Learned counsel appearing on behalf of respondent No.4 has not been able to dispute the factual assertion that no notice was issued to the petitioner before the land was attached. He has, however argued that the petitioner should have appeared before the Magistrate and corroborated his assertion by filing necessary documents. Learned counsel for the petitioner states that he would have no objection in appearing before the criminal court to bring to its notice that neither receiver should have been appointed nor proceedings under Section 145 Cr.P.C. should have been carried further but the ex parte order whereby the Naib Tehsildar has been appointed as receiver should be set aside. Learned counsel for the respondents are not in a position to deny the logic of this prayer.

In the circumstances the impugned order is set aside. Parties are directed to appear before the Sub Divisional Magistrate, Dera Baba Nanak on 16.03.2015 and he would decide on the maintainability of the petition under Section 145 Cr.P.C. after hearing both the parties in accordance with law.

Petition stands disposed of.

(AJAY TEWARI)
JUDGE

February 09, 2015

sunita