

CRM-M-35815-2015**Date of decision : 16.10.2015****Bhal Singh and others****..... Petitioners****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE AJAY TEWARI*********

Present: Mr. S.S.Sahu, Advocate for the petitioners.

1. Whether Reporters of local papers 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?

AJAY TEWARI, J. (Oral)

The petitioners have challenged the concurrent orders of the Sub Divisional Magistrate and the Additional Sessions Judge, Fatehabad whereby they have been directed to remove a gate which is stated to have been installed by them in a public street. Earlier also the Sub Division Magistrate had passed an order and the petitioners had challenged it and the Court had set it aside and remanded it back with a direction to decide it afresh after giving both the parties an opportunity of being heard and allowing them to lead evidence. Thereafter the Sub Divisional Magistrate allowed the parties to lead evidence and also visited the spot along with the X.E.N., Public Health and other officers. The parties led their evidence also. The respondents examined five witnesses who stated that the petitioners had indeed installed a gate in the Gali shar-e-aam. Out of them four witnesses were not even cross-examined by the petitioners. It was on the basis of his own observation and after taking the evidence that the Sub Divisional Magistrate accepted the application under Section 133 of the Code of Criminal Procedure and passed a conditional order under Section 136 of the Code of Criminal Procedure directing the petitioners to remove the

gate. The challenge having failed, the petitioners are before this Court.

Learned counsel has argued that actually the petitioners own the land and at one stage had filed a civil suit seeking a declaration that they were owners of the land and that civil suit was decreed. He has, however, argued that that decree was set aside on the ground of jurisdiction and ultimately the plaint was returned to the petitioners under Order 7 Rule 10 of the Code of Civil Procedure for being presented to the proper Court which is before the Deputy Commissioner, Fatehabad. It is not disputed that those proceedings are pending. In these circumstances and taking into consideration the entire record I do not feel it a case for interference at this stage. In case the petitioners succeed in their suit they would be able to install the gate again.

Petition is dismissed.

(AJAY TEWARI)
JUDGE

October 16, 2015
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