

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.4310 of 2009

Date of Decision.27.02.2015

Sudesh Kumar Gupta

.....Petitioner

Versus

Union of India and others

.....Respondents

2. COCN No.1625 of 2010

Sudesh Kumar Gupta

.....Petitioner

Versus

Naresh Yadav and others

.....Respondents

Present: Mr. R.S. Chahal, Advocate
for the petitioner.

Mr. Rajiv Sharma, Advocate
for UOI.

Mr. R.S. Bhatia, Advocate
for respondent Nos.3 and 4.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Through the writ petition, the petitioner attempted to stall a commercial transaction of loan and recovery process. It is brought out through the representation of the counsel appearing on behalf of the respondent-Bank that a civil suit for appointment of receiver and seizure of the vehicle had been made. The order of Court appointing a Receiver was issued as early as on 14.01.2008. The petitioner himself had joined the proceedings on 12.11.2008. It appears that two vehicles were also sold on 26.02.2009 and the petitioner has resorted to an action for restraint

exercise to be wholly untenable and a gross abuse of process.

2. When the proceedings were pending in Civil Court through which action, the property was sold, the petitioner's remedy ought to have been only before the very Court where the precipitate action of sale was taken. There could have been no intervention when the Civil Court was seized of the matter. It is also brought out now by the counsel appearing on behalf of the respondents that the petitioner had approached the Civil Court where the sale had taken place with plea for contempt pointing out to the order passed by this Court on 27.03.2009 and the contempt application though was ordered by the Civil Court, the order was set aside by the High Court of Delhi in C.M. No.630 of 2012 and C.M. No.9582-83 of 2012 through the order passed on 09.02.2015. The Court has observed that there was an application under Section 9 of the Arbitration and Conciliation Act filed by the petitioner and when it was dismissed, he took no effort to repossess the vehicle from the Receiver on dismissal of the petition and the interim orders should be vacated immediately. The Court found that there was no illegality in the order passed attaching the vehicles for sale. The decision of the High Court of Delhi ought to place the curtains against the petitioner for any intervention through the writ petition.

3. The writ petition is dismissed.

4. The contempt petition is also dismissed, for, there is no disobedience that is made out against the respondents.

(K. KANNAN)
JUDGE

February 27, 2015
Pankaj*