

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

COCP No.1222 of 2001

Date of decision: August 31, 2016

Anita Garg and another

.....Petitioners

Versus

Mohan Lal Garg and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Alok Mittal, Advocate and
Mr. Rajiv Mittal, Advocate
for the petitioners.

A.B. CHAUDHARI, J

In the present contempt petition, the petitioners claim that contempt of the order dated 22.03.1990 passed by this Court was committed by the officials of the Bathinda Improvement Trust. Reliance is placed on the order dated 22.03.1990 which is said to have been violated.

The said order is quoted as under:-

“The above LPA came up for hearing before this Hon'ble Court on 22.03.1990 and the following order was passed:-

*“Present H.S. Mattewal, Sr. Advocate with S.P. Karwal,
Advocate.*

Admitted.

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To be heard with LPA No.44 of 1990. Operation of the impugned order is stayed meanwhile but the respondents will not be dispossessed if they are already in possession.

March 22, 1990 *Acting Chief Justice
and M.S. Liberhan, J.”*

The Trust has filed its affidavit in reply to the petition. The

relevant portion from the reply filed by respondent No.2-Avtar Singh, Executive Officer, reads thus:-

“The land of the petitioners acquired under scheme known as 25.21 acres scheme was only 3 Biswas and 6 Biswasis (approximately 165 square yards) in khasra no.1997 min khata no.668 but the possession of the said 3 Biswas and 6 Biswasis was never taken and the petitioners are in possession of the same. The trust has acquired 7 bighas and 10 biswas out of 7 bighas 18 biswas of khata no.668 of khasra no.1997 min. It is submitted that only khata no.668 was acquired. There is another khata of petitioners i.e. khata no.691 in khasra no.1997 min measuring 4 bighas and 10 biswas and the land in this khata no.691 was never acquired. In this khata no.691 also the petitioners were co-owners. The possession of 7 bighas and 7 biswas out of 7 bighas and 10 biswas of khata no.668 excluding 3 biswas and 6 biswasis (approximately 165 square yards) owned and possessed by the petitioners, was delivered to the Trust by Land Acquisition Collector on May 5, 1989. The trust has spent huge amount on the construction of its office and other building on the land acquired measuring 7 bighas and 7 biswas of which possession was delivered to the trust. The other co-sharers of 7 bighas and 10 biswas have not challenged the acquisition proceedings. It is only the petitioners who are owners in possession of 3 biswas and 6 biswasis of the land who have challenged the acquisition.”

It is thus, clear from the above reply filed by the Trust that in the Scheme 25.21 acres, only 3 Biswas, 6 Biswasis (approximately 165 sq. yards) in Khata No.668, Khasra No.1997 was acquired but the possession of 3 Biswas and 6 Biswasis was never taken and that remained in the possession of the petitioners. However, the Trust acquired 7 Bighas and 10 Biswas out of 7 Bighas and 18 Biswas of Khata No.668 of Khasra

No.1997. It is thus, stated that the land was acquired only from Khata No.668. The petitioners have another Khata, i.e. Khata No.691 in Khasra No.1997 measuring 4 Bighas and 10 Biswas and land in Khata No.691 was never acquired in which the petitioners were the co-owners. The possession of 7 Bighas and 7 Biswas and 10 Biswas of Khata No.668 excluding 3 Biswas and 6 Biswas (approximately 165 sq. yards) owned and possessed by the petitioners, consequently, was delivered to the Trust on 05.05.1989. The Trust has further pointed out that the above factual aspect was found to be correct by the Division Bench while deciding CM No.5634 of 2001 in LPA No.467 of 1990, which CM was decided on 12.02.2002 by separate order which was never put to challenge.

We have seen the said order. It clearly records that the statements made by the Trust above are correct and that the Trust was within its right to develop the land, acquisition of which had attained finality, whereas, the petitioners are entitled to have only 165 sq. yards of land in their possession.

In view of the above, in our opinion, there is no substance in the above contempt petition. In the result, we make following order:-

ORDER

COCP No.1222 of 2001 stands dismissed.

(SURYA KANT)
JUDGE

(A.B. CHAUDHARI)
JUDGE

August 31, 2016
mahavir

Whether speaking/ reasoned: Yes

Whether Reportable: No