

COCP No.1428 of 2015

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

**COCP No.1428 of 2015
Date of decision:17.10.2016**

Kavita

...Petitioner

Versus

Satbir Singh Lohchab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Mani Ram Verma, Advocate,
for the petitioner.

Mr. Shalender Mohan, Advocate,
for respondent No.1.

Mr. Vikrant Rana, Advocate,
for respondent No.2.

Mr. Sajjan Singh Malik, Advocate,
for respondent No.3.

Rakesh Kumar Jain, J.

This petition is filed for initiating contempt proceedings under Sections 10 and 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the “Act of 1971”), for allegedly violating the order dated 14.08.2014 passed in CWP No.4494 of 2012, order dated 10.11.2014 passed in LPA No.1826 of 2014 and the order dated 15.11.2011 passed by the Civil Judge (Junior Division), Charkhi Dadri.

In short, the petitioner has allegedly purchased the land measuring 15 Kanal 08 Marlas, being 1/4th share of 61 Kanal 13 Marlas,

comprised in Khewat No.2146, Khatauni No.2335 from Vijay Kumar and Vinod Kumar sons of Raj Rani for a sum of ₹5,77,500/- by way of a registered sale deed dated 03.07.2006. One Vinod Bagla filed an application before the Deputy Commissioner, Bhiwani for the cancellation of the aforesaid sale deed. The Deputy Commissioner ordered cancellation and the Joint Sub Registrar, Charkhi Dadri registered four cancellation deeds in the case of the petitioner and three other similar cases. It is also alleged that Jagdish Rai Bagla and Ajay Bagla, both related to Vinod Bagla, filed a civil suit in the Court of Civil Judge (Junior Division), Charkhi Dadri on 18.10.2007 but the said suit was dismissed on 15.11.2011. It is further averred that one Maya Kaur filed CWP No.4494 of 2012 in order to challenge the order of the Deputy Commissioner, ordering cancellation of sale deed and its ultimate cancellation. The said writ petition was allowed by this Court and the cancellation order was set aside, holding that the sale deed will give to the purchasers only such right that he professes to purchase and if any suit is filed by a person claiming himself to be the owner, the Court will examine the issue of title or possession in the manner that the situation might require and take a view unaffected by the existence or otherwise of a sale deed set up by the petitioners. The order passed in the writ petition dated 14.08.2014 was challenged by way of LPA No.1826 of 2014, which was dismissed on 10.11.2014 but the appellant therein was given liberty to approach the Civil Court as it was stated on his behalf that the respondent-purchasers are likely to create third party rights with a view to misappropriate the property in question and direction was also issued to

the respondent-purchasers not to alienate, transfer, gift, mortgage and/or create any encumbrance on the subject property for a period of three months.

The petitioner had applied to the revenue authorities for the purpose of sanctioning mutation on the basis of the sale deed. The said mutation was disputed and ultimately the Assistant Collector 1st Grade, vide his order dated 25.02.2015, rejected the mutation and hence, this petition has been filed for initiating action against the respondents for the alleged violation of the order passed in the writ petition, LPA and the order dated 15.11.2011 passed in the civil suit.

After notice, respondent No.1 has filed reply and submitted that the answering respondents have not violated any order of this Court much-less willfully as the order dated 25.02.2015 by respondent No.1 has been passed while exercising its powers under the Punjab Land Revenue Act, 1887 (hereinafter referred to as the "Act").

I have heard learned counsel for the parties and examined the available record.

Even if the petitioner has a valid sale deed and had applied for sanctioning of mutation in terms of Section 34 of the Act, the said mutation, if not disputed, has to be made in terms of Section 35(a) of the Act and if it is disputed then in terms of Section 35(b) read with Section 34(4) of the Act. The mutation disputed by the respondents has been rejected after inquiry by the Assistant Collector 1st Grade and the petitioner cannot allege willful disobedience on the part of the respondents in this regard to attract

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the penal provisions of the Act of 1971.

Otherwise also, the petitioner has the remedy to challenge the order dated 25.02.2015 passed by the Assistant Collector 1st Grade in terms of the provisions of the Act but the contempt petition is not maintainable and the same is hereby dismissed as such.

October 17, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No