

**Sr. No.204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**COCN No. 1681 of 2014
Date of decision:23.11.2016**

Satpal

.....Petitioner

versus

D.K.Saldi and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. H.B.S.Baidwan, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Mr. Munish Jolly, Advocate
for respondents No. 2 and 4 to 9.

Rakesh Kumar Jain, J.(Oral)

This petition is filed for invoking Section 12 of the Contempts of Courts Act, 1971(for short, 'the Act') for the alleged disobedience of the order dated 3.05.2012 and 11.09.2012 passed in CWP No. 6719 of 2012.

In short, the petitioner filed CWP No. 6719 of 2012 titled as Pirthi Gir and others vs. Director Rural Development and Panchayats, Punjab and others for seeking quashing of the order dated 30.09.2010 passed by the DDPO cum Collector, SAS Nagar vide which an application filed by the Gram Panchayat, village Chandpur under Section 7 of the Punjab Village Common Land(Regulations) Act, 1961(for short, 'the 1961 Act') was accepted and the order dated 14.10.2011 passed by the Director Rural Development and Panchayat(Exercising the powers of Commissioner) dismissing the appeal of the petitioner. In this writ petition, order was passed on 10.04.2012 is as follows:-

“Learned counsel for the petitioners submits that the petition under Section 11 of the Punjab Village Common Land(Regulations) Act, 1961 (for short, '1961 Act') filed at the instance of the petitioners vide Annexure P-3, is pending consideration before the competent authority. Learned counsel for the petitioners further submits that an application dated 26.3.2012 (Annexure P-4) has also been filed by the petitioners, but no order thereon has been passed. On the other hand, the petitioners are apprehending imminent dispossession at the hands of the respondents.

Notice of motion for 21.5.2012.

In the meantime, dispossession of the petitioners shall remain stayed.”

Respondents, after coming to know about the aforesaid order, filed an application bearing CM No.5845 of 2012 in which the following order was passed by the Court:-

“Notice of the application to counsel for the non-applicant/petitioners.

Counsel for the non-applicant/petitioners is present in court and prays for time to file reply.

Adjourned to 21.05.2012 the date already fixed.

Parties shall maintain status quo with respect to possession till further orders.”

Before the next date for which the case was adjourned i.e. 21.05.2012, an application bearing CM No. 6078 of 2012 for seeking clarification of the order dated 30.04.2012 was filed in which the following order was passed:-

“Prayer in this application is for clarification of order dated 30.04.2012.

We find no reason to clarify the order dated 30.04.2012 directing status quo as whosoever is in possession of the property, in dispute, shall be entitled to harvest the crop, without interference from the other party.”

Counsel for the State has submitted that the possession of the property in question was delivered on 30.03.2012 and Rapat Roznamcha was also prepared. Thus, Gram Panchayat was in possession of the land in question on the day when the stay was granted by this Court and when the clarification was sought by the petitioner in which the division bench has held that the crop shall be harvested by the party whosoever is in possession thereof.

Thereafter, writ was finally decided on 11.09.2012 taking into consideration that the application filed by the petitioner under Section 11 of the 1961 Act was disposed of as infructuous. However, it was ordered that the party shall maintain status quo for a week in case the appeal is filed within a week against the order of dismissal of the application filed under Section 11 of the 1961 Act.

The petitioners have allegedly filed the appeal before the Divisional Commissioner which was allowed and the matter was remanded back to the Collector, who again dismissed the application filed under Section 11 of the 1961 Act vide order dated 11.09.2012.

The appeal filed by the petitioner before the Commissioner was dismissed on 27.05.2016. It is submitted by learned counsel for the petitioner that the order of the Collector and Commissioner respectively

have already been challenged in this Court in a writ petition which is not listed so far.

In view of the aforesaid facts and circumstances, this Court has to decide *as to whether respondents are guilty of contempt much less the willful disobedience of the order dated 3.05.2012 and 11.09.2012?*

After hearing learned counsel for the parties and keeping in view the aforesaid facts and circumstances, I am of the considered opinion that on 3.05.2012 no specific order was passed in favour of the petitioner rather his application was disposed of by this Court observing that no clarification is required of order dated 30.04.2012 by which this Court had directed the parties to maintain status quo with regard to possession. As per the State counsel possession had already been delivered to the Gram Panchayat and Rapat roznamcha was prepared much prior to the filing of the writ petition. Ultimately, the writ petition was disposed of as infructuous on 11.09.2012 and status quo was ordered to be maintained only for a week till appeal is filed by the petitioner before the appellate court i.e. Commissioner of the division. Since it was a time bound stay i.e. if the appeal is filed within a week then it will operate for a week and thereafter, the petitioner in the said appeal had to obtain stay from the concerned appellate court and the order passed by this court came to an end as soon as the appeal is filed within a week. Thus, the petitioner can not proceed against the respondents under the provisions of the Act for the alleged willful disobedience on their part as order passed by this Court on 11.09.2012 came to an end just after a week. Hence, the present petition is hereby dismissed.

Rule discharged.

23rd November, 2016
Shivani Kaushik

[Rasesh Kumar Jain]
Judge

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No