

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

CR No.1429 of 2016

Date of decision: 26.02.2016

Khan Singh

..... Petitioner.

Versus

Gram Panchayat Village Kothe Killi Wale and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

DARSHAN SINGH, J. (Oral)

The present civil revision petition under Article 227 of the Constitution of India has been preferred against the order dated 28.07.2015 passed by the learned Civil Judge (Jr. Division), Ferozepur, vide which the application moved by the petitioner under Order 39 Rule 1 and 2 read with Section 151 Code of Civil Procedure, 1908 (for short 'C.P.C.') for grant of *ad interim* injunction has been dismissed and the order dated 04.02.2016 passed by learned Additional District Judge, Ferozepur, vide which the appeal against the aforesaid order has been dismissed.

2. Petitioner-plaintiff filed the suit for declaration with consequential relief of injunction on the grounds *inter alia* that while working as Sarpanch of Gram Panchayat of village Kothe Killi Wale, Tehsil and District Ferozepur, he utilized all the

grants issued to the Gram Panchayat for various developments schemes for the village. Respondent no.2-Block Development and Panchayat Officer (for short 'BDPO') verified the utilization of the funds and issued certificate to this effect. Respondent no. 3 has wrongly held that Rs. 4,34,172/- are recoverable from the petitioner. He further pleaded that the respondents are threatening to forcibly recover the aforesaid amount. Hence the application for *ad interim* injunction.

3. Respondents contested the application on the plea that petitioner has mis-utilized the grants issued for the development of the village during his tenure from 2008 to 2013 and inquiry was conducted by Sub-Divisional Officer, Panchayati Raj, Ferozepur (for short 'SDO') on the basis of an application moved by Raj Singh and during inquiry, penalty of Rs. 4,34,172/- was imposed upon him. The petitioner was very much present during the inquiry and after hearing him, the recovery was imposed.

4. The learned trial Court has dismissed the application for *ad interim* injunction vide order dated 28.07.2015. The appeal filed by the petitioner was also dismissed by the learned Additional District Judge, Ferozepur, vide order dated 04.02.2016. Hence this civil revision petition.

5. I have heard Mr. R.S.Sekhon, Advocate, learned counsel for the petitioner and have carefully gone through the

paper book.

6. Initiating the arguments, learned counsel for the petitioner contended that the petitioner has properly utilized all the grants given to the Gram Panchayat during his tenure. Even, the utilization certificate was issued by respondent no.2-BDPO, Mamdot, District Ferozepur. He further contended that due to party faction in the village, the petitioner is being harassed. The inquiry conducted by the SDO, Panchayat Raj, Ferozepur is illegal, as no notice was issued to him at the time of inquiry on the basis of which the recovery has been imposed. Thus, he contended that the plaintiff is entitled for the *ad interim* injunction.

7. I have duly considered the aforesaid contentions.

8. In order to secure the relief of *ad interim* injunction, the petitioner-plaintiff was required to establish the *prima facie* case and balance of convenience in his favour and that he will suffer irreparable loss, if the injunction is refused.

9. This fact is not disputed that petitioner was holding the post of Sarpanch of the Gram Panchayat from the year 2008 to 2013. It is also not disputed that during his tenure, the grants were released by the Government for carrying out the development works in the village. It is also not disputed that there were allegations against the petitioner that he has mis-utilized the funds of the Gram Panchayat and an inquiry was held against him by the SDO, Panchayati Raj, Ferozepur.

During inquiry, it was found that the petitioner has mis-utilized a sum of Rs. 3, 53,218/- from the grants and Rs. 80,954/- from the Panchayat funds. Total Rs. 4,34,172/- were held to be recoverable from the petitioner. In the written statement filed by the respondents, it has been categorically mentioned that at the time of inquiry, the petitioner was very much present and after hearing him, the recovery was imposed. Thus, the petitioner has no *prima facie* case in his favour. The balance of convenience is also not in his favour as the respondents are recovering the amount in question from the petitioner in a legal manner.

10. There is also no question of any irreparable loss by the petitioner as it is only a monetary matter and if the suit is finally decided in his favour, the money deposited by him can well be refunded.

11. Thus, keeping in view my aforesaid discussion, there is no reason to differ with the discretion exercised by the learned Courts below and the application of the petitioner for *ad interim* injunction has been rightly declined.

12. Resultantly, the present revision petition having, no merits, is hereby dismissed.

26.02.2016

S.khan

**(DARSHAN SINGH)
JUDGE**