

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

CR No.6005 of 2015(O&M)

Date of decision:8.7.2016

Balbir Singh

....Petitioner

VERSUS

Gram Panchayat and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Samir Rathaur, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition has been directed against order dated 26.05.2015 (Annexure P-1) passed by the Civil Judge (Junior Division), Rupnagar, dismissing application under Order 21 Rule 32 read with Section 151 of the Code of Civil Procedure, 1908 (for brevity 'CPC') filed by the petitioner.

Counsel for the petitioner would submit that he along with his mother Shanti Devi filed a suit for permanent injunction restraining Gram Panchayat of village Prithipur, Tehsil Anandpur Sahib, District Ropar from interfering in possession of the plaintiffs over land detailed in head-note of the plaint and cutting and removing the trees standing in the suit land also detailed in head-note of the plaint. The suit was decreed by the trial Court vide judgment and decree dated 27.09.2000 (Annexure P-2). An application was filed under Order 21 Rule 32 read with Section 151 CPC

on the premise that the JD is hell-bent to interfere in the property and threatened to remove the trees from the decreetal land forcibly and illegally. The application has been wrongly and illegally dismissed by the executing Court, therefore, the order passed by the executing Court is liable to be set aside and necessary action is required to be initiated against the respondent- Gram Panchayat.

I have heard counsel for the petitioner, perused the paper-book particularly the order dated 26.05.2015 (Annexure P-1) impugned in the present petition.

The respondent/JD filed its response to the application under Order 21 Rule 32 CPC and on the basis of pleadings of the parties, the executing Court framed issues and permitted the parties to adduce evidence in respect of their respective contentions. On analysis of the averments/pleadings, oral and documentary evidence adduced, the Court held in para 10, extracted hereinbelow for ready reference:-

“10.....Necessary to mention here that AW-1 had admitted in his cross-examination that the suit land was owned by the Gram Panchayat. Very passively, he has conceded the pendency of petition U/s 11 which concluded before the revenue court. Even though he has feigned his ignorance about the outcome of these proceedings before the revenue court, but from the Ex.R3 and Ex.R4, it is established on record that applicant has denied the outcome of these proceedings being adverse to his interest. The reasons are obvious and need no elaboration. He has failed to account for single instance which would show that JD had cut down the trees or tried to forcibly to take possession of the suit land. From Ex.R3 and Ex.R4, it can be propounded that the respondents have followed lawful course to take the possession from the applicant. Last but not the least, it is also significant to mention that the proceedings under order 21 Rule 32 CPC are quasi criminal in nature. A person who intentionally violates the decree can be detained in prison. Therefore, the principles of criminal law regarding Mens Rea and also that the defendant has voluntarily and intentionally committed breach of such decree must be proved on record beyond all shadow of doubt. In fact,

the applicant is required to prove the allegations equivalent to the one required in criminal case and the charge has to be proved to the hilt. In this context, this Court is fortified by the observation by the Hon'ble Punjab & Haryana High Court in case titled Raj Kumar Vs. Parshotam Dass & Ors. 2002(2) CCC 664.”

Counsel for the petitioner has not advanced any arguments to challenge correctness of the factual as well as legal findings recorded by the Court below. That being so, I find myself unable to accept the contentions of the petitioner that the impugned order warrants intervention in exercise of supervisory jurisdiction of this Court.

For the foregoing reasons, the petition fails and is accordingly dismissed in *limine*.

JULY 8, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE