

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

CRM No.M-14510 of 2016 (O&M)

Date of Decision: August 05, 2016

Major Singh and another

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Parshotam Lal Singla, Advocate
for the petitioners.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.S.P.Soi, Advocate
for respondent No.4.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of Calandra dated 12.02.2016 submitted by SHO, Police Station Noor Mahal and the order dated 21.08.2015 passed by learned Sub Divisional Magistrate, Phillaur etc. and all criminal proceedings arising therefrom.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.4 appeared and contested the petition.

At the time of argument, it is admitted before this Court that before presentation of Calandra, civil litigation qua the same property was

already going on between the parties. The dispute is between Harjinder

Kaur respondent and his father Bakshish Singh. Bakshish Singh has given power of attorney to Amrik Singh. As per the case of the petitioner Major Singh, Bakshish Singh has given the land to him for two years and has also given the power of attorney to him for the purpose of cultivation of the land and related matters. Learned counsel for the respondent argued that the civil suit is between Harjinder Kaur and Bakshish Singh and Major Singh is not a party and in the present petition also, Calandra is also against Major Singh.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, I find that dispute is qua the same land. Even if Major Singh is a lessee and alleges his possession on the basis of taking of land on lease from Bakshish Singh, then he would be treated in footsteps of Bakshish Singh. When the Civil Court is already seized of the matter, then Executive Magistrate has no power to initiated parallel proceedings. It is settled law that parallel proceedings cannot be initiated when the civil Court is seized of the matter.

Learned counsel for the petitioner relied upon the order of this Court passed in ***CRM No.M-13775 of 2013 titled as "Harjinder Kaur vs. State of Punjab" decided on 31.10.2014***. Learned counsel for the petitioner also relied upon judgment passed by the Hon'ble Supreme Court in ***Ram Sumer Puri Mahant vs. State of U.P. and others, 1985(1) RCR (Criminal) 278***, in which also, the Hon'ble Supreme Court has held that when civil suit for title, possession and injunction is pending in civil Court, then criminal proceedings under Section 145 Cr.P.C. cannot be started while civil suit is pending.

learned counsel for respondent No.4 admitted that parallel proceedings cannot be initiated when civil proceedings are pending but their only argument is that in the civil suit Major Singh is not a party and in criminal proceedings, Bakshish Singh is not a party.

As already discussed, as Major Singh is alleging his possession on the basis of lease by Bakshish Singh, therefore, he would be treated in the footsteps of Bakshish Singh and this fact qua lease is not contested by Bakshish Singh. Rather, Bakshish Singh is one of the petitioner in the present petitioner.

In view of the above discussion, I find merit in the present petition and the same is allowed. Calandra dated 12.02.2016, order dated 21.08.2015 passed by learned Sub Divisional Magistrate, Phillaur and all the subsequent proceedings arising therefrom, are hereby quashed.

August 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No