

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

**CRM-M-41655 of 2015
DECIDED ON: MAY 05, 2016**

ANIL KUMAR SAINI

.....PETITIONER

VERSUS

STATE OF PUNJAB & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. Vishal Aggarwal, Advocate
 for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

Mr. Surinder Pal, Advocate for
Mr. Mohinder Singh Nain, Advocate
for respondents No.6 and 7.

JASPAL SINGH, J (ORAL)

This is a petition preferred under Section 482 of the Code of Criminal Procedure by Anil Kumar Saini seeking directions to respondents No.2 and 3 to safeguard the life and liberty of the petitioner as well as his family members at the hands of respondents No.4 to 7.

In pursuant to notice of motion, official respondents filed reply by way of an affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police (Rural), Pathankot.

The preliminary submissions contained in the affidavit is relevant for the disposal of instant petition, which reads as under:-

“That one Sat Pal Saini had moved applications dated 338-Misc. Dated 01-11-2011 and 368-Misc. Dated 09-11-2011 through petitioner against the respondent no. 6 and Vipin Kumar for registration of Criminal case for reaping the crops of paddy. The then SHO, P.S. Tarangarh conducted the inquiry of the matter. Amar Singh s/o Sunder Singh r/o Shekhuchack was owner of land measuring 33 Kanals 16 Marlas situated at Village Shekhuchak, HB No. 143, Tehsil and District Pathankot. Amar Singh was unmarried and he had executed a WILL in favour of his niece Malawi Devi wife of Diwan Chand r/o Village Jagatpur and the said land is being cultivated by Malawi Devi for the last more than 12/13 years and mutation no. 765 has been sanctioned in the name of Malawi Devi and they have been cultivating the said land in the lifetime of Amar Singh and thereafter and girdawari of the land are in the names of Malawi Devi and the revenue of the land has been paid in the name of Malawi Devi. It is found that the alleged crop has been cultivated by Malawi Devi and her family and the same had been reaped by her. The niece of Amar Singh namely Parkasho Devi, Raj Kumari, Santosh Kumari, Kailasho Devi and nephew Satpal had filed a civil case in the court of Sh. Gurmit Singh Tiwana, Civil Judge, Pathankot which was decided on 13-10-2011 in favour of Parkasho Devi etc. and Malawi Devi had filed appeal against the said orders in the court Sh. Rajiv Kalra, Add'l District Judge, Pathankot which was pending in the courts. The petitioner who is son of Parkasho Devi was directed to avail remedy from Civil Court or Revenue department and the matter is pending in the court and as such no action by police is wanted and applications were disposed off accordingly. Thereafter the petitioner moved another application to the SSP, Pathankot against the respondent no. 6 and 7 for taking action against them. The said matter was inquired by the respondent

no. 5 and found that Malawi Devi and her family had been cultivating the said land and the petitioner was asked to avail remedy from District Magistrate, Pathankot for getting possession of the afore said land. On further inquiry of the application no. 886-PPH dated 14-10-2014, the petitioner was directed to get the orders of taking possession of the said land from the Hon'ble Court. Then another application number 662-PPH was moved by Usha Saini w/o Jagdish Saini r/o Sekhuchak, the matter was inquired and it was found that the case of the applicant has been decided in favour of applicant by the court of Sh. Gurmeet Singh Tiwana, Civil Judge, Pathankot on 13-10-2011 and the appeal filed against the said orders has been dismissed by the court of Sh. Balwinder Singh Sandhu, Ld. District Judge, Pathankot vide orders dated 16-04-2014 and the respondents no. 6 and 7 have filed appeal against the said orders in the Hon'ble High Court of Punjab and Haryana, Chandigarh which is pending. The matter is of civil nature as such required no police action. However the application under order 21 Rule 32 CPC read with section 151 CPC have been filed in the court of Sh. Randhir Verma, Ld. Civil Judge(Senior Division), Pathankot and the Hon'ble Court has passed an order to provide police help to the Decree Holders vide order dated 10-11-2014 but the possession of the land court be got delivered by the Revenue Official and the police have to give protection to the Decree Holders for conducting such proceedings. The police have always been ready to provide protection to the decree Holders as per orders of Hon'ble Court but the possession has to be delivered by the Revenue Officials. The police have to comply the orders of the Hon'ble Court. The police neither threatened nor harassed the petitioner nor called them again and again at Police Station except for the inquiry of the applications moved by them. The police never threatened to take any coercive action and the allegations of the petitioner are misconceived and inappropriate as such the present petition is not maintainable against the answering respondents and liable to be dismissed”.

A perusal of the aforesaid submissions transpires that the matter is of civil nature, which requires no police action. The civil Court is also seized of the matter and if there is any violation of any order passed by the civil Court, petitioner can have recourse to the remedies available under civil law by moving an appropriate application before the Competent Court of jurisdiction. However, instant petition is not maintainable and the same is disposed of as such.

MAY 05, 2016
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(JASPAL SINGH)
JUDGE