

Civil Writ Petition No. 15800 of 2016

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

**Civil Writ Petition No. 15800 of 2016
Date of Decision: 9.12.2016**

Vijay Pal

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Ajay Paul Singh Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order 15.10.2014 (Annexure P-6), whereby Assistant Collector 1st Grade, Abohar, District Fazilka-respondent No.3 adjourned the case sine die, seeking redemption of mortgage, till decision of the civil suit pending between the parties.

Heard learned counsel for the petitioner.

The operative part of the impugned order (Annexure P-6), available at page 36 of the paper book, which is claimed to be true translation, reads as under:-

“I have heard the contesting parties and perused the record. After perusal of record it is found that defendant Seema Rani has instituted a Civil suit regarding disputed land which is still pending through

Civil Writ Petition No. 15800 of 2016

this civil suit Seema Rani stated that mortgage deed No. 5885 dated 23.12.2008 related with this disputed land is wrong and illegal. Keeping in view that disputed land which was mortgaged vide mortgage deed dated 23.12.2008 is under challenge in civil court. Keeping in view till the decision of civil suit this application for redeeming of mortgage is to be kept sine-die. After the decision of the civil court if parties opt for hearing then they can restored this case. So, I am sine-die this case till the decision of the civil suit.”

A bare perusal of the abovesaid order would show that Assistant Collector 1st Grade, Abohar, did not exceed his jurisdiction, while passing the impugned order. Learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order. Further, no prejudice of any kind, whatsoever, has been shown, which might have been caused to the petitioner by passing the impugned order, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Article 226/227 of the Constitution of India.

The only argument raised by learned counsel for the petitioner was that once the application under Order 39 Rule 1 and 2 read with Section 151 CPC moved by Smt. Seema Rani in the civil suit has been dismissed, the Assistant Collector 1st Grade, should have proceeded further without waiting for the outcome of the civil suit.

The abovesaid solitary contention raised by learned counsel for the petitioner has been found wholly misplaced for the reason that dismissal of the said application would not amount to dismissal of the civil suit, which

Civil Writ Petition No. 15800 of 2016

is admittedly pending between the parties. Having said that, this Court feels no hesitation to conclude that the Assistant Collector 1st Grade, Abohar, committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

9.12.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No