

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15887 of 2016
Date of decision: 30.09.2016

Gurcharan Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Agam Jund Mullanpur, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 10.02.2016 (Annexure P-7), whereby the petitioners, being members of Gram Panchayat, were placed under suspension by the Director, Rural Development and Panchayats, Punjab. They are also seeking quashing of the appellate order dated 19.05.2016 (Annexure P-8 colly.) passed by the Secretary to Govt. of Punjab, Department of Rural Development and Panchayats, whereby appeals of the petitioners were dismissed.

When the case came up for hearing on 08.08.2016, following order was passed by this Court: -

“Learned counsel for the petitioners submits that petitioners, as a matter of fact, moved an ejectment petition against respondent No.5 under the Punjab Village Common Land (Regulation) Act, 1961,

seeking his ejectment from the gram panchayat's land. However, he seeks time to place on record a copy of the said application which is stated to be pending consideration.

On his request, adjourned to 19.8.2016.”

It is pertinent to note here that the abovesaid order was passed on the persistent efforts made by learned counsel for the petitioners, to contend that the petitioners, as matter of fact, filed ejectment petition against respondent No.5, under the Punjab Village Common Land (Regulation) Act, 1961. In compliance of the abovesaid order dated 08.08.2016 passed by this Court, petitioners by way of CM No.10876-CWP of 2016, sought to place on record additional documents in the form of Annexures P-9 to P-11. Said application was allowed vide order dated 05.09.2016. However, from the additional documents placed on record by the petitioners by way of Annexures P-9 to P-11, nothing has been found, which may substantiate the plea raised by learned counsel for the petitioners before this Court on 08.08.2016, meaning thereby the petitioners were trying to overreach this Court by taking false plea with a view to obtain favourable orders.

When confronted with the abovesaid fact situation, learned counsel for the petitioners tried to justify the abovesaid stand taken on behalf of the petitioners, while referring to the application (Annexure P-9), which was moved before Block Development and Panchayat Officer. It is also not in dispute that Block Development and Panchayat Officer was not the competent authority under the Punjab Village Common Land (Regulation) Act, 1961 to order ejectment of any resident of the village, from his illegal possession on the panchayat land. In this view of the matter, it becomes crystal clear that the petitioners were intentionally trying to misuse the process of law, by raising the

abovesaid frivolous plea before this Court.

So far as alleged misconduct on the part of the petitioners is concerned, for which they have been placed under suspension, an inquiry was conducted by District Development and Panchayats Officer and thereafter, he submitted his report. It has been reported against the petitioners that they would never cooperate in the development works of the village, causing continuous hurdles in working of the Gram Panchayat, because they were belonging to the opponent group, who was always bent upon to ensure that the Gram Panchayat must not work.

Petitioners would not cooperate even in the day to day functioning of the Gram Panchayat. In fact, main plank of the petitioners before this Court has been found to be a malafide effort to settle their personal score with the Sarpanch of their Gram Panchayat. If this was the intention of the petitioners, they should not have tried to make this Court as a party to their dirty politics. However, since the petitioners have no respect for the justice delivery system, as well as for the Courts, they also do not deserve any kind of sympathy from this Court.

In view of what has been discussed and observed hereinabove, present writ petition has been found to be a frivolous litigation, which is liable to be dismissed with exemplary costs.

The abovesaid view taken by this Court is also supported by two judgments of the Hon'ble Supreme Court in **Nirlon Synthetic Fibres & Chemicals Ltd. Vs. Union of India, 1998 (99) ELT 22** and **The Special Director and another Vs. Mohd. Ghulam Ghouse and another, 2004 (3) SCC**

440. The relevant observations made by the Hon'ble Supreme Court in para 5 of its judgment in **Nirlon Synthetic Fibres & Chemicals Ltd.**'s case (supra), read as under: -

“.....It is relevant here to take note of the nature of the subject-matter of the writ petition and of likelihood of any serious or irreversible hardship that its dismissal may entail. The writ petition challenged a show cause notice. An order of stay was made on 21st May, 1981. The petition was pending for nearly ten years. It is stated at the Bar that the point raised in the writ petition has since been covered by a pronouncement of the High Court in another case which is said to support petitioners' contention.

Even if the order of dismissal of the writ petition assumes finality it is yet open to the petitioner to respond to the notice in the statutory proceedings and show cause. If any further steps are taken by the authorities pursuant to the show cause notice, petitioners may have recourse to and pursue other remedies available at law. Taking an overall view, in our opinion, it will not be appropriate to interfere with the discretion exercised by the High Court.”

Again, the law laid down by the Hon'ble Supreme Court on the issue involved herein, is crystal clear from the bare reading of para 5 of the judgment in **Mohd. Ghulam Ghouse**'s case (supra). Observations made by the Hon'ble Supreme Court in para 5, which can be gainfully followed in the present case, read as under: -

“This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of

the show cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless, the High Court is satisfied that the show cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court. Further, when the Court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is accorded to the writ petitioner even at the threshold by the interim protection, granted.”

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 since the present writ petition amounts to be a frivolous and vexatious litigation, it is bound to be dismissed with costs. In the circumstances of the case,

the costs are quantified at Rs.50,000/-. Each of the petitioner shall pay the costs of Rs.10,000/-.

Petitioners shall deposit the amount of costs with the Secretary, District Legal Services Authority, Patiala within a period of two months from the date of receipt of certified copy of this order, failing which the Collector, Patiala shall recover the said amount from the petitioners as arrears of land revenue and deposit the same with the Secretary, District Legal Services Authority, Patiala.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands dismissed with costs, as indicated above.

[RAMESHWAR SINGH MALIK]
JUDGE

30.09.2016

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No