

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

CWP No. 8605 of 2016
Date of decision: 05.05.2016

Radha Mohan Goswami

....Petitioner

Versus

The District Magistrate, Union Territory,
Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. J.K. Sibal, Sr. Advocate, with
Mr. Gaurav Chopra, Advocate,
for the petitioner.

Paramjeet Singh Dhaliwal, J. (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 04.02.2016 (Annexure P-21) passed by respondent No.1-the District Magistrate, UT, Chandigarh.

I have heard learned senior counsel for the petitioner and perused the paper-book.

The application was filed by one Madan Mohan Goswami resident of H.No. 70, Sector 27-A, Chandigarh against one Kamal Goswami son of Sh. Madan Mohan Goswami whereby eviction of Kamal Goswami has been ordered. The writ petition has been filed by Radha Mohan Goswami, brother of Madan Mohan Goswami without impleading Kamal Goswami as a party. Furthermore the present petitioner namely, Radha Mohan Goswami

was not a party before the District Magistrate in the impugned order dated 04.02.2016 (Annexure P-21). Learned counsel for the petitioner has brought to my notice that earlier three petitions bearing CWP Nos. 672, 4019 and 10985 of 2013 were filed before this Court and the same were disposed vide order dated 14.07.2014, wherein a reference to a compromise, placed on record in that case as Annexure A-1 has been made.

Learned senior counsel has vehemently submitted that it was the statement made by the parties in civil suit, which was placed before this Court in CWP No. 672 of 2013 as a compromise. Be that as it may, the lis between the parties regarding the same very property has been decided in view of the compromise between the parties. So far as the present petition is concerned, the same cannot be entertained as the petitioner was never a party before the District Magistrate. The remedy with the petitioner is to approach the District Magistrate with regard to the clarification of the order specifically for his ouster from the said premises. I have no doubt that order of the District Magistrate will not operate against the petitioner because it can only operate qua the parties to the lis. Since the apprehension of the petitioner is that he will be ousted on the basis of order passed by the District Magistrate on 04.02.2016 (Annexure P-21) in Madan Mohan Goswami Vs. Kamal Goswami, it is clarified that the authority shall not oust the petitioner on the basis of impugned order dated 04.02.2016 (Annexure P-21) if he is in possession of said premises. This petition is not maintainable without impleading the

relevant persons as party, specifically when the petitioner himself was not a party.

The petition is disposed of with the observations that the petitioner will be at liberty to move appropriate application before the District Magistrate, U.T. Chandigarh, seeking clarification with regard to any apprehension that he feels.

05.05.2016
PA

(Paramjeet Singh Dhaliwal)
Judge