

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

COCP No.2815 of 2015

Date of Decision:-23.03.2017

Prem Lata.

.....Petitioner.

Versus

Raj Kumar & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Harsh Aggarwal, Advocate for the Petitioner.

Mr. Shailender Sharma, Advocate for the respondents.

JASWANT SINGH, J.(ORAL)

Petitioner has preferred the instant contempt petition under Section 10 and 12 of the Contempt of Courts Act for alleged violation of Order dated 25.10.2001 (**P-1**) passed in RSA No.4319 of 2001.

The dispute in the present petition is qua a passage and alleged encroachment thereupon, in Southern walls of alleged plot of Maha Ram (predecessor in interest of the respondents).

It is contended by learned Counsel for the Petitioner that Maha Ram had filed a suit for permanent injunction against the petitioners which was dismissed by the learned trial Court and the said finding was upheld by the learned ADJ Gurgaon. However, the petitioners have preferred a Regular Second Appeal No.4319 of 2001 in which after issuance of notice

of motion parties were directed to maintain status quo. It is stated that this

appeal stands admitted. It has been argued by learned Counsel for the petitioners under the garb of status quo order in the month of June 2015, the respondents have put an iron gate and lock thereupon so as to establish their possession over the passage in question. Thus, it is averred that the order dated 25.10.2001 stands violated.

On the other hand learned Counsel for the respondents have argued that there has been no violation of the order of status quo dated 25.10.2001 (**P-1**) since the gate in question is in existence even prior to the filing of the civil suit. It is also argued that it is infact the petitioners who were trying to interfere in the possession by installing drain water pipes from the passage/plot in question which was reported to the police through complaint dated 4.6.2015 Annexure **R-3**. Thus, it was argued that it is the petitioners who are hellbent to violate the order dated 25.10.2001 and in fact the present petition is not bonafide and is only a arm twisting method to scuttle valuable rights of respondents.

After hearing learned Counsel for the parties and perusing the paper book this Court is of the considered view that the present petition is devoid of merit and the same deserves to be dismissed.

The contentions raised by both the Counsels are based upon factual dispute, which cannot be gone into by this Court while exercising jurisdiction under the contempt of Court Act. It is not in dispute that the dispute regarding passage/plot is still pending adjudication before this Court in RSA No. 4319 of 2001 and the same has not attained finality till date.

The question regarding possession can only be determined by the Civil Court and not by the Court exercising powers under the Contempt

of Courts Act. The present case does not fall within the category of any contempt because both the parties were directed to maintain status quo regarding possession qua the passage in question. It is still in dispute as to who was in actual physical possession at the time of filing of the suit.

In view of the above, finding no merit in the present contempt petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 23, 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>