

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

COCP No.2914 of 2015

Date of Decision:-22.03.2017

Kashyap Rajput Sabha, Ambala & Anr.

.....Petitioners.

Versus

Jiwan Kishore & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Sanjay Jain, Advocate for the Petitioner.

Mr. Anand Chhiber, Senior Advocate assisted by
Mr. Vaibhav Sahni, Advocate for the respondents.

JASWANT SINGH, J.(ORAL)

In compliance of order dated 22nd of November 2016, respondents have filed their reply and today petitioner has filed his rejoinder to the same, which is taken on record.

Petitioner has filed the present Contempt petition under Section 12 of the Contempt of Courts Act, 1971, by alleging willful disobedience of order dated 07/08/2009 (**P-3**) passed by this court in RSA No. 28 of 2009, which stands admitted on 29/01/2010.

It is the contention of Ld. Counsel for the petitioners that in the Regular Second Appeal preferred by them, vide order dated 07.08.2009, this Court had ordered the parties to maintain status quo regarding possession as it existed on said date i.e 07/08/2009. However, it has been

alleged that in the month of August, 2015, respondents have violated the interim orders passed by this court and have disturbed the position of the building by demolishing the old construction in the Dharamsala in question. It is averred that the petitioners are owner in peaceful possession of the property, however, respondents have broken the windows and doors of a hall on the 1st floor and have also raised the walls and has placed new lintel on it. Further, it is alleged that old record has been taken away by breaking open the locks and therefore a DDR No. 18 dated 19th of August 2015 was lodged at PS Ambala City.

Upon notice, respondents have filed a reply whereby they had stated that they are in peaceful and lawful possession of property, by managing the affairs of the Dharamsala in question and there is no willful default on part of the respondents. In fact, it has been averred that since the construction of the Dharamsala as well as Temple in question is of the year 1930 therefore, the building was in a dilapidated condition, as is apparent from the photographs Annexure R 1/1 Colly. Therefore, it was imperative for the respondents to get the building repaired and the contractor who had repaired the building had also deposited his bill which is also appended with reply as Annexure R-1/3. Remaining averments were denied and prayer was made for dismissal of the contempt petition.

In the rejoinder, the petitioners have denied all the averments made in the reply filed by respondents and prayed that the respondents be held guilty of contempt.

After hearing the counsel for the parties and using the paper book, this court is of the opinion that present petition is liable to be dismissed, being without any merit.

Although, this court had ordered maintenance of status quo regarding possession of the property, it is still in dispute as to who is the possession of the property in question, which shall be finally decided by the Court in pending Regular Second Appeal. Furthermore, respondents have clearly stated that since the building was in a dilapidated condition, it was imperative for them to carry out the necessary repairs.

The contempt court cannot be a fact finding court and enter into a roving enquiry, especially in matter pertaining to civil dispute. The contempt court can only exercise its powers where it is apparent that there is clear cut violation of any court order. The petitioners have other alternative efficacious remedies available with them, if advised.

In view of the above, the present petition being without any merit is hereby dismissed. Rule stands discharged.

(JASWANT SINGH)
JUDGE

March 22, 2017
Vinay

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