

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.O.C.P. No.3044 of 2014(O&M)

Date of Decision: 27.01.2017

Tarsem Lal Mittal.

.....Petitioner.

Versus

Sh. Deepinder Singh, Secretary Punjab Mandi Board & Ors.

.....Respondents.

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Arun Jain, Senior Advocate assisted by
Mr. Sudhir Malhotra, Advocate for the applicants/petitioner.

Mr. Sanjeev Sharma, Advocate for the respondents.

JASWANT SINGH, J.

C.M. No.15140-CII of 2016

The applicants-Santosh Mittal and Sanjeev Mittal are the widow and son of the petitioner-Tarsem Lal Mittal and have moved the present application under Order 22 Rule 3 of the Civil Procedure Code seeking their impleadment being the only legal heirs of Tarsem Lal Mittal, who is stated to have died on 31.05.2016.

It is submitted that except the applicants, there are no other legal heirs. The application is supported by the affidavit of son-Sanjeev Mittal.

For the reasons stated in the application, duly supported by an affidavit, the same is allowed subject to all just exceptions. The applicants are brought on record as LRs of the petitioner-Tarsem Lal Mittal for the purpose of pursuing the present contempt petition.

Amended memo of parties is taken on record. Registry to place

the same at appropriate place.

MAIN CASE

The petitioner-Tarsem Lal Mittal has filed the present contempt petition against the respondents/officials of the Punjab Mandi Board asserting that their conduct in neither revalidating of his allotment nor refunding of the entire 25% bid amount in terms of the direction (ii) contained in the order dated 22.01.2013 passed by a learned Division Bench of this Court, amounts to a clear contempt of this Court.

The facts, in brief, are that the petitioner-Tarsem Lal Mittal was the highest bidder in the auction held on 01.10.2008 by the Punjab Mandi Board for the auction of plot measuring 18675.69 square yards at Kapurthala Road, Jalandhar, on freehold basis, for residential and allied purposes. The plot was offered as “As Is Where is Basis” and at a reserved price of Rs.6 Crores. The petitioner offered a sum of Rs.21.33 Crores and on acceptance of his bid, he deposited 10% of the bid amount. The remaining 15% of the bid amount were also deposited within next 30 days towards the earnest money. The balance 75% amount was payable in six half yearly installments with the component of 15% interest commencing from 18.05.2009 up to 18.11.2011. The possession of the plot was offered on 24.12.2008, but the petitioner-allottee did not take possession due to lack of free access from the 30 feet approach road through Saraswati Vihar (as per the layout of the Improvement Scheme) to the plot. The land comprising 30 feet approach road belongs to the Improvement Trust, who along with the Officers of the Punjab Mandi Board, were obliged to provide the 30 feet approach road access to the aforesaid plot in question from the side of Saraswati Vihar. It transpires that the residents of the Saraswati Vihar had

filed a Civil Suit and obtained an injunction order against the opening of the passage blocked by it. Hence, the petitioner was constrained to approach this Court by filing CWP No.312 of 2009.

The said writ petition was disposed of with the following directions:-

“ Suffice it would be to mention here that in the sanctioned lay-out plan/Scheme prepared/notified by the Jalandhar Improvement Trust, the auctioned plot has been provided access through the passage in dispute.

In these circumstances when due to the injunction order passed by Civil Court, Jalandhar, the respondent-authorities are unable to fulfill their promise and the petitioner is not willing to accept the allotment or deposit the balance allotment amount unless the subject passage is opened, we deem it appropriate to dispose of this writ petition at this stage with the following directions:-

i) The Civil Court at Jalandhar, before whom the civil suit filed by respondent No.4, its office bearers or any resident of Saraswati Vihar, is pending, is directed to decide the civil suit in all circumstances on or before 31.5.2013 if so required by taking up the matter on day to day basis. We are informed that the civil suit is fixed for hearing on 13.3.2013. Since the parties to the civil suit are before us, we direct the Civil Court, Jalandhar to pre-pone the next date of hearing and take up the civil suit for hearing on 30.1.2013. The parties are directed to appear before the Civil Court on 30.1.2013. No party to the suit shall be granted more than three opportunities to lead their respective evidence. In the event of noncooperation by the parties or their counsel, the Civil Court shall be at liberty to proceed with the matter in accordance with law and comply with our directions. If the ad-interim

injunction application has not so far decided on merits, we direct the Civil Court that the said application with or without the assistance of parties, be decided before 16.2.2013.

ii) No sooner the civil suit is decided, respondent No.1 is directed to re-determine the claim of the petitioner regarding (a) re-validation of the allotment or (b) refund of the entire 25% bid amount deposited by the petitioner. The findings to be returned by the Civil Court shall obviously have some bearing for determination of the petitioner's rights, hence we make it clear that the Board authorities shall take a fresh decision objectively and without being influenced of their previous orders. ”

It has come on record that the said Civil Suit already stands dismissed vide judgment dated 10.05.2013 (P-4). Although, an appeal has been filed before the Appellate Court, however, no stay was granted.

Learned Counsel on the strength of the aforementioned facts has argued that despite the fact that civil suit has been dismissed and there being no stay in the appeal, the respondents were under obligation to remove the Wall and open the 30 feet passage or in the alternative should have taken a decision upon the claim of the petitioner as raised by him in his legal notice issued through Counsel on 02.09.2014 (P-5). Thus, it has been argued that the respondents have willfully disobeyed the direction passed by this Court and hence are guilty of contempt.

On the other hand learned Counsel for the State has argued that although there was no stay granted by the Appellate Court, efforts made by the respondents to open the passage met with a stiff opposition from the Residential Welfare Association, who resorted to protest. The police was

accordingly informed and thereafter, numerous meetings ensued between

the concerned parties including the Improvement Trust Jalandhar, under whose control the disputed passage comes. However, all the meetings have failed and ultimately, the matter was taken up by the Chairman of the Punjab Mandi Board with the Hon'ble Chief Minister of Punjab, who ultimately directed them to take up the matter with the Commissioner of Police, Jalandhar or Deputy Commissioner of Police, Jalandhar for the purpose of police assistance and resolving the matter. It was after the entire effort and exercise taken by the respondents which presumably failed that ultimately with the help of DCP and ACP Jalandhar along with adequate police presence on 8.4.2015, the passage was got opened by demolishing the illegal and unauthorized construction of the Wall. The said report along with Photographs has been attached as Annexure R-3 and R-4 respectively. It was also submitted that the claim of the petitioner stands determined vide order dated 08.04.2015 (**R-5**). Thus, it was prayed that the order passed by the Division Bench stands complied with, although, with delay which was not in the control of the authorities/respondents.

After hearing learned Counsel for the parties and perusing the paper book along with record, it transpires that the respondent officials cannot be held to be guilty of willful default of the order dated 22.01.2013 passed in CWP No.312 of 2009.

The facts as enumerated above, along with the explanation given by the respondents at the time of arguments as well as in their reply would reveal that the matter has remained under active consideration of the respondents and they had tried their level best to maintain the law and order situation prevalent in the vicinity because the majority of the residents of the society were against the opening of the Wall in question. The

authorities are under bounden duty to look into the welfare of the people at large and involve all the affected parties for the peaceful solution.

In the present case it is apparent that the respondents had tried to pacify all the concerned parties and it was only when the situation could not be settled amicably that they resorted to the advice of the then Chief Minister of Punjab and thereafter, by using police help got the wall demolished and cleared the passage.

Under these circumstances, it is a clear case where the Authorities have committed no willful default of the order passed by this Court. Further, now it has transpired that the grievance of the petitioner also stands redressed, as his claim has also been decided vide order dated 08.04.2015 (R-5).

Hence, no ground for interference is made out while exercising jurisdiction under the Contempt of Courts Act as the order dated 22.01.2013 stands substantially complied with.

Dismissed.

(JASWANT SINGH)
JUDGE

January 27, 2017
Gagan/Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No