

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

COCP No.325 of 2017

Date of Decision:-15.02.2017

Madan Lal.

.....Petitioner.

Versus

Sh. Vipul Ujwal, IAS & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Deepak Bhardwaj, Advocate for Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner has preferred the instant contempt petition under Section 11 of the Contempt of Courts Act for not complying with the orders dated 05.10.1994 (P-1) passed in RSA No.1178 of 1994 and it is alleged that respondents are not delivering the possession of land and have infact, further given possession to some other persons.

It is the averred by Ld. Counsel for petitioner that originally petitioner had filed Civil Suit No. 155 of 1989 for declaration and possession against The State of Punjab and private persons, which was decreed in his favor vide Judgment dated 25.04.1991 (P-2). Aggrieved against the same, State as well as Bachan Singh (one of the defendant in the said suit), filed their separate appeals, which were also dismissed by the Ld. ADJ, Hoshiarpur vide Judgment and Decree dated 28.08.1993 (P-3).

Punjab Vs Madan Lal”, which was also dismissed in limine on 05.10.1994 (P-1). SLP (Civil) No. 11903 of 1993 preferred by State of Punjab was also dismissed by the Hon’ble Supreme Court on 11.07.1995 (P-4). However, the appeal filed by Bachan Singh bearing No. 2638 of 1993 remained pending in this Court, which was ultimately withdrawn by Bachan Singh vide order dated 29.03.2016 (P-5), in view of the fact that parties had entered into a compromise. By referring to aforementioned factual position, Ld. Counsel for petitioner has argued that after decision of RSA No. 2638 of 1993 on 29.03.2016, he approached the present respondents for taking possession of the land, however, the said respondents are dilly-dallying the matter and have infact, with a malafide intention, given the possession of land to different persons. Thus, on the strength of these facts, he has prayed that contempt proceedings be initiated against the respondents by invoking provisions of Section 11 of the Contempt of Courts Act.

I have learned counsel for the petitioner at length and am of the considered opinion that present petition is completely devoid of merit, being not maintainable. Petitioner is trying to get Judgment and Decree dated 25.04.1991 (P-2) executed through this court by wrongly invoking the provisions of Contempt of Courts Act. The factual aspect as observed above, clearly shows that there is a civil dispute amongst the parties to the said *lis*, which has culminated into passing of Judgments and Decrees in favor of the petitioner. It is settled law that this court, which exercising powers under Section 11 of Contempt of Courts Act, cannot act as an executing court and for the said purpose separate remedies are available under law, including resorting to provisions of Order 21 of Code of Civil Procedure. Hence, the present contempt petition is not maintainable.

However, at this stage, Ld. Counsel for the petitioner has prayed that he may be permitted to withdraw this petition, with a liberty to take avail any other appropriate remedy as available under law.

Dismissed as withdrawn, with liberty as prayed for.

(JASWANT SINGH)
JUDGE

February 15, 2017
Vinay

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