

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

**Civil Revision No.3908 of 2015
Date of Decision: 07.10.2017**

**State of Haryana and anotherPetitioners
Vs
Tilak Raj and othersRespondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Siddharth Sanwaria, D.A.G., Haryana
for the petitioners.

None for respondent Nos.1 to 4.

Mr. Vikrant Rana, Advocate
for respondent No.5.

Mr. R.S. Panghal, Advocate
for respondent No.6.

RAJ MOHAN SINGH, J.

[1]. Notice of motion was issued in this case on 05.06.2015 and operation of the impugned orders Annexures P-3, P-4, P-5 and P-8 was stayed including the trial. Service *qua* respondent Nos.1 to 4 was already complete, however none appeared on their behalf on 08.01.2016 and thereafter on 12.05.2016. Even today, none appeared on their behalf. Consequently, respondent Nos.1 to 4 are ordered to be proceeded against *ex parte*.

[2]. Petitioners are aggrieved of the orders dated

25.05.2015 and 30.05.2015 passed by the Civil Judge (Jr. Divn.) Dadri whereby arrest warrants of petitioner No.2 were issued besides attaching the monthly salary and government vehicle of petitioner No.2.

[3]. Brief facts are that respondent Nos.1 to 4 filed a suit for declaration with consequential relief of mandatory injunction against the petitioners and respondent Nos.5 and 6. The said suit is pending consideration before the trial Court. Plaintiffs challenged the order dated 30.03.2015 passed by defendant No.3-Circle Revenue Officer-cum-Tehsildar Charkhi Dadri, Distt. Bhiwani vide which objections regarding formation of wards in village Kohlawas were dismissed. The order passed by defendant No.2 was also assailed whereby appeal filed by the plaintiffs was dismissed. Mandatory injunction was sought by the plaintiffs for issuance of directions to the defendants i.e. petitioners and respondent Nos.5 and 6 to demarcate the wards in the village afresh and to restrain the petitioners to publish the final list of wards and to conduct Panchayat elections on the basis thereof. The suit was filed on 12.05.2015.

[4]. Suit was tried before the trial Court. The proceedings were adjourned to 13.05.2015 for arguments and maintainability of the suit. Along with the suit an application under Section 80(2) CPC was also filed for seeking permission to dispense

with the requirement of notice under Section 80(2) CPC to be served upon the defendants. No order was passed in that application. Vide order dated 13.05.2015 notices were issued to the defendants for 16.05.2015. On 16.05.2015, the case was adjourned for 19.05.2015 for filing written statement by the defendants and the defendants were directed to appear in the Court on the adjourned date. Till then, defendants were directed to maintain *status quo* regarding the suit property.

[5]. Instead of 19.05.2015. the case was taken up on 18.05.2015 on an application filed by defendant No.3 for rejection of the plaint. Defendant Nos.2 and 3 appeared in person. They were ready to conduct the verification of the houses in the village. SCPO was appointed as Local Commissioner to conduct the verification of every house in the concerned *wardbandi* of the village. In addition to that two Advocates were also appointed as Local Commissioners in order to ensure that exact physical verification was conducted by the SCPO. The report of Local Commissioner was awaited for 20.05.2015.

[6]. Evidently, the case was not taken up on 19.05.2015 i.e. the date fixed for filing written statement by the defendant vide order dated 16.05.2015. Thereafter the case was taken up on 25.05.2015. In between a contempt petition was filed. As per

order dated 25.05.2015, ACPO Devender, appeared in the Court and supported the contempt application filed by the plaintiffs to the effect that the *wardbandi* has already been published in the newspaper as per direction of the Deputy Commissioner as well as Sub-Divisional Officer (Civil) Charkhi Dadri.

[7]. In view of said statement and the publication of *wardbandi* in the newspaper 'Dainik Bhaskar' dated 22.05.2015, it was opined by the trial Court that the same was illegal being published in violation of the court order, when the matter was *sub-judice* in the Court. Publication was treated to be non-existent and it was observed that no further election would be held on the basis of such publication. The defendants were directed to publish one another notice for cancelling the aforesaid notice of *wardbandi* in the village in the same newspaper within a week of passing the order dated 25.05.2015. It was also observed that contempt application would be tried separately, but in parallel proceedings with the main suit. The case was adjourned for 26.05.2015 for personal appearance of defendant Nos.2 to 4.

[8]. Thereafter the trial Court passed the order dated 30.05.2015 issuing arrest warrants of defendant No.2 through DSP, Charkhi Dadri, who was directed to arrest defendant No.2

i.e. SDO (Civil) Charkhi Dadri to produce him in the Court failing which he was to appear in the Court for explanation. Monthly salary and the government vehicle provided to defendant No.2 were also ordered to be attached. The intimation was sent to Deputy Commissioner.

[9]. Learned State counsel submitted that the order of *status quo* was passed on 16.05.2015 and was made to continue till 19.05.2015. The said order of *status quo* was never ordered to be continued beyond 19.05.2015. Filing of application by defendant No.2 on 18.05.2015 for rejection of the plaint and appearance of defendant Nos.2/petitioner No.2 in the Court was in pursuance of the notice issued by the civil Court on 13.05.2015. Nothing has been brought on record about the factum of service of order dated 16.05.2015 vide which order of status quo was issued and the defendants were directed to appear in the Court. The case was never taken up on 19.05.2015.

[10]. I have heard learned counsel for the parties.

[11]. Perusal of order dated 18.05.2015 passed by the trial Court is suggestive of the fact that the same was related to the conduct of verification of houses in the village by the official Local Commissioner in assistance with two of the Advocates

appointed by the Court as Local Commissioners. Violation of order of *status quo* has been alleged in terms of publication of *wardbandi* in the newspaper 'Dainik Bhaskar' on 22.05.2015. It could not be brought on record as to whether the order of *status quo* dated 16.05.2015 was in operation beyond 19.05.2015 i.e. on the date of publication of the *wardbandi* in the newspaper on 22.05.2015. The official acts had already been done under the order of the competent Authority vide order dated 17.04.2015.

[12]. It appears that the order dated 30.05.2015 has been passed by the trial Court without ascertaining the import of order dated 16.05.2015 whereby order of *status quo* was issued till 19.05.2015. Perusal of order dated 18.05.2015 or other orders passed thereafter do not suggest continuation of order of *status quo* at any point of time.

[13]. In view of facts on record, I deem it appropriate to set aside the orders dated 25.05.2015 and 30.05.2015 passed by the Civil Judge (Jr. Divn.) Dadri. Ordered accordingly. The revision petition is allowed. However, the trial Court shall proceed henceforth in accordance with law.

October 07, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No