

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

-.-

CR 50 of 2014 (O&M)

Date of decision: 26.07. 2017

Gram Panchayat Village Silani

..... Petitioner

Versus

Pohap Singh and another

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Lokesh Sinhal, Advocate
for the petitioner

Mr. Adarsh Jain, Advocate
for respondent No. 1

Mr. Vishal Kashyap, AAG, Haryana
for the State

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Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 09.12.2013 passed by the learned Additional Civil Judge (Senior Division), Sohna whereby Revenue Officers have been directed to enter mutation on the basis of judgment and decree dated 23.11.2012.

On 20.01.2014, notice of motion was issued and a relevant extract from the order reads as follows:-

“Learned counsel, inter alia, contended that although the main decree was passed against the petitioner-Gram Panchayat by the civil Court, but the executing Court has illegally accepted the execution petition without impleading it (gram panchayat) as a party, vide impugned order.

Heard.

Issue notice of motion to the respondents.

At this stage, Mr. Surinder Dagar, Advocate, on behalf of respondent No.1 and Mr. O.P. Sharma, Additional Advocate General, Haryana, on behalf of the State appear, accept notices and seek time to argue the matter.

Adjourned to 31.03.2014 for arguments, at the request of counsel for the respondents.

The operation of the impugned order is hereby stayed till further orders.”

Counsel for the petitioner has submitted that though the Gram Panchayat filed an appeal against the judgment and decree dated 23.11.2012, which was later dismissed as withdrawn but still later, an application was filed for recalling the order dated 22.03.2013 with regard to dismissal of the appeal and the application was dismissed by the Court of appeal. The order passed by the Court in appeal was challenged by way of CR No.4231 of 2014, pending in this Court.

Counsel for the petitioner has further submitted that subsequent to all these developments, an inquiry was conducted by the Additional District Judge, Gurgaon and as per inquiry report dated 28.11.2014, it was found that the decree in question is forged and an FIR in this regard was lodged on 19.12.2014 with Police Station, Gurgaon City, Gurgaon. It is further submitted that as no decree was passed in favour of respondent No.1, there was no occasion for the executing Court to direct the Revenue Officer to enter mutation on the basis of judgment and decree dated 23.11.2012.

Counsel would submit that the present petition may be disposed of but without prejudice to right of the petitioner to file an

application/objection petition before the executing Court with a direction to the Court to decide the objection petition on merits without being influenced by order dated 09.12.2013.

Counsel for respondent No.1 has no objection if the petition is disposed of in the aforesaid terms as prayed for by counsel for the petitioner.

In view of the above, without examining correctness or otherwise of the order dated 09.12.2013, the present petition stands disposed of but without prejudice to right of the petitioner to file objections before the executing Court and the same shall be decided by the Court on merits in accordance with law. However, till disposal of the objection petition that may be filed by the petitioner within a period of two months, order dated 09.12.2013 shall be kept in abeyance.

(Rekha Mittal)
Judge

26.07.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No