

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

CRL. MISC. No.M-9090 OF 2012 (O&M)
DATE OF DECISION : 27th APRIL, 2017

Harbans Kaur

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Amit Jhanji, Advocate for
 Mr. Karan Bhardwaj, Advocate for the petitioner.

Mr. Daljeet Singh Virk, DAG, Punjab.

Mr. N. S. Dandiwal, Advocate for respondent No.4.

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A. B. CHAUDHARI, J. (ORAL)

In the present petition there is challenge by the petitioner Harbans Kaur to the order dated 09.12.2010 made by the Court of learned Sub-Divisional Magistrate, Ferozepur in exercise of its power under Section 145 Cr.P.C., appointing the SHO as receiver of the suit property, merely because he produced the kalandara under Section 145 Cr. P. C. The dispute is between the mother-in-law and her widow daughter-in-law.

Learned counsel for the petitioner submits that the daughter-in-law has re-married and the petitioner holds a Will in her favour.

As against learned counsel for the daughter-in-law submits that the mutation entries in the names of both mother-in-law and daughter-in-law was carried out.

Upon perusal of the record I have seen that the petition is pending in this Court since 2012, therefore, this Court had made an attempt to ask the Tehsildar to affect the partition of the suit property since, *prima facie*, this Court found that they will be entitled to half share each. However, the report from Naib Tehsildar shows that the petitioner did not want to participate in those proceedings. In other words, the efforts for mediation have not succeeded.

In my opinion, since the petitioner is alleging about Will in her favour and the daughter-in-law has re-married it is for the petitioner to prove her case in the competent civil Court. *Prima facie*, in my opinion, appointment of SHO of Police Station as a receiver sounds somewhat strange.

Be that as it may, since the matter is pending for number of years, it would not be appropriate at this stage to interdict with the said impugned order rather since the petitioner has raised claim on certain foundations namely Will etc., I think the petitioner should be relegated to the remedy of approaching the competent civil Court. But then that cannot be allowed to be done *ad infinitum*. In that view of the matter, I make the following order:

ORDER

- (i) The petitioner is allowed to file appropriate proceedings before the civil Court and also apply for interim orders before the competent Court, within a period of three months from today.
- (ii) The impugned order shall continue to operate till the necessary interim orders to be made by the civil Court, in accordance with law. In case the petitioner does not avail of the remedy as

aforesaid of approaching the civil Court and obtaining necessary interim orders, the impugned order shall continue to operate till the proceedings under Section 145 Cr. P. C. are finally decided.

- (iii) The order dated 03.11.2015 made by this Court shall continue till the making of any interim order by the civil Court in accordance with law.
- (iv) CRL. MISC. No.M-9090 OF 2012 is disposed of with above observations.

27th APRIL, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No