

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 13583 of 2015 (O&M)
Date of decision: 17.5.2017

Khajan Singh (deceased) through LRs

.. Petitioner

v.

Director, Consolidation of Holdings, Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R. S. Hooda, Advocate for the petitioner.
Ms. Palika Monga, Deputy Advocate General, Haryana.
Mr. S. K. Chauhan, Advocate for respondents No. 6 to 12.

...

Rajesh Bindal J.

The petitioner, namely, Khajan Singh (since deceased) had approached this court restraining the official respondents from re-aligning the *phirni* through killa No. 7/20, as depicted in site plan (Annexure P-8).

At the very out-set, learned counsel for the State raised a preliminary objection regarding concealment of material facts by the petitioner while filing the present petition. She submitted that petitioner-

Khajan Singh had earlier filed Civil Suit No. 149 of 2015 praying for the same relief. Application under Order 39 Rules 1 & 2 CPC filed in that suit was dismissed by learned Civil Judge (Junior Division), Sohna vide order dated 21.9.2015. On the one hand, he had filed a civil suit for the same relief, whereas on the other hand, he is pursuing the present petition. Though written statement was filed by the official respondents in December, 2016, however, till date no replication has been filed. As the petitioner had concealed material facts from this court, the writ petition deserves to be dismissed on that score.

Learned counsel for the petitioner could not dispute the factum of filing of civil suit, order passed therein having been attached as Annexure R-4, however, he submitted that the aforesaid civil suit was filed after filing the present writ petition.

After hearing learned counsel for the parties, in our opinion, the present petition deserves to be dismissed being totally misconceived. The petitioner is not only guilty of concealment of material facts from this court, rather, it is a case of forum hunting. The writ petition was filed in this court on 7.7.2015 praying for the following relief:

“(i) Issue a writ in the nature of Prohibition restraining the authorities from re-aligning the PHIRNI through Killa No. 7/20 as depicted in the MAP (Annexure P/8) while committing absolute, willful disobedience of the orders dated 17.12.2008 and 24.4.2015 (P/2 and P/11, respectively) passed by this Hon'ble Court, whereas, in garb of revising the PHIRNI and aligning the same by passing it through the house of the petitioner, respondent No. 5 has already committed illegal and

contemptuous act by demolishing the dwelling unit of petitioner comprised inside the Killa No. 7/20 while giving winds to the aforesaid High Court orders and showed total disrespect towards this Hon'ble Court and deliberately flouted the said orders due to certain extraneous reasons/considerations.”

After certain additional documents were placed on record along with additional affidavit, notice of motion was issued on 20.7.2015 and interim relief was granted to the petitioner. Immediately thereafter, the petitioner preferred to file a Civil Suit bearing No. 149 dated 23.7.2015 in the court of Civil Judge (Junior Division), Sohna. Opening para of the order dated 21.9.2015 dismissing the application under Order 39 Rules 1 and 2 CPC for interim relief, is extracted below:

“By this order I shall dispose of an application filed under order 39 Rule 1 & 2 of Civil Procedure Code, 1908 (hereinafter referred to as “CPC”) by the plaintiff praying therein for restraining the defendants from re-aligning the 'Phirni' through Killa No. 7/20, that is, at Khasra No. 32/1 or making concrete road on the 'Phirni' through Killa No. 7/20, that is at Khasra No. 32/1 shown in red colour in the site plan attached with the plaint or changing the nature of suit land in any manner till the decision of the case.”

A perusal of the relief prayed for in the writ petition and the civil suit shows that both are identical. The dispute pertains to '*phirni*'.

Considering the fact that the petitioner has indulged in forum-hunting for seeking relief, the present petition is dismissed with cost of ₹

5,000/-, which shall be deposited with the Registry of this Court within one month from the date of receipt of copy of the order.

(Rajesh Bindal)
Judge

(Ramendra Jain)
Judge

17.5.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No