

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
132**

COCP-2514-2018

Date of decision:20.08.2018

GURMILAP SINGH AND ANOTHER

...PETITIONERS

V/S

AJAIB SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Abhinav Jain, Advocate,
for the petitioners.

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AUGUSTINE GEORGE MASIH, J.

Petitioners have approached this Court alleging violation of the interim order passed by this Court on 30.04.2018 (Annexure P-1) in CM-8632-C-2017 in RSA-2140-2017 titled as Nasib Kaur (deceased) through her LRs vs. Ajaib Singh and others, whereby it was ordered that in the meantime, parties to maintain status quo, which order subsisted till the final decision of the Regular Second Appeal i.e. 18.07.2018 (Annexure P-6).

It is the contention of the learned counsel for the petitioners that after the passing of the order dated 30.04.2018 (Annexure P-1), which was well within the knowledge of respondent No. 1, respondent No. 1 tried to cultivate the land in dispute. In support of this contention, he has placed reliance upon the photographs appended as Annexure P-2. It is asserted that the Khasra Girdawari stands in the name of deceased Dewa Singh. Copy of

the Khasra Girdawari is enclosed as Annexure P-3. A representation was submitted by the petitioners on 31.05.2018 with the police officials of Police Station City, Jagraon and an FIR No. 159 dated 11.06.2018, Police Station City, Jagraon was lodged. The police officials (respondents No. 2 and 3 herein) have not arrested respondent No. 1 and, therefore, they have violated the order passed by this Court. Counsel, thus, contends that the proceedings under the Contempt of Courts Act be initiated against them.

When confronted by this Court with the order dated 18.07.2018 (Annexure P-6) passed by this Court in the Regular Second Appeal, whereby the said appeal was disposed of on the basis of the consensus, which was arrived at between the parties, and there being no mention of any of the parties having violated the interim order, counsel for the petitioners has placed reliance upon a judgment of the Hon'ble Supreme Court in **Tayabhai M. Bagasarwalla vs. Hind Rubber Industries Pvt. Ltd.** 1997 (3) SCC 443, to contend that the disobedience or the violation of the interim order in a pending case, which may finally have been decided, would render such violator of the order liable to be proceeded against under the Contempt of Courts Act.

I have considered the submissions made by the learned counsel for the petitioners and with his able assistance, have gone through the records of the case.

Averting first to the assertion of the counsel for the petitioners that the interim order of the status quo has been violated by the respondents, the said contention would not be of much help in the light of the fact that merely because some photographs have been placed on record showing a tractor on a piece of land would not indicate the order of status quo having

been violated by respondent No. 1. That apart, mere registration of the FIR would also not prove the factum of violation of the interim order of this Court. In any case, in the light of the order passed by this Court on 18.07.2018 where a consensus has been entered into between the parties and was agreed with regard to the entitlement of the respective share of the parties out of the property of deceased Dewa Singh, it cannot be said that respondent No. 1 has, in any manner, violated the order passed by this Court dated 30.04.2018, contempt of which is alleged. A perusal of the said order further indicate that no plea with regard to violation of the interim order passed by this Court has been asserted or even raised before the Court at the time of hearing of the appeal. That apart, this Court is not satisfied that the interim order passed by this Court has, in any manner, being violated by the respondents keeping in view the fact that the matter has been amicably resolved between the parties.

As far as the judgment of the Hon'ble Supreme Court, on which reliance has been placed by the counsel for the petitioners i.e. Tayabbhai M. Bagasarwalla (supra), the said case is distinguishable on facts especially in the light of the fact that there the injunction order, which was passed by this Court, has been violated and the said aspect has been brought to the notice of the Court at that very instance when the suit was pending.

The grievance, as has been highlighted in the present contempt petition, has never been brought to the notice of the Court when the Regular Second Appeal was pending in this Court nor was such a grievance ever been agitated till the final disposal of the case. The present contempt petition appears to be an afterthought and that too, with an intention to harass respondent No. 1.

As regards respondents No. 2 and 3, they have been merely roped in for the reason that they are police officials and had registered the FIR on the complaint of the petitioners but had not arrested respondent No. 1. The intention as to why the present petition has been filed is clear as the petitioners primarily appear to be having a grievance with regard to the non-arrest of respondent No. 1 by respondents No. 2 and 3 even after registration of FIR. They have, therefore, tried to misuse the process of the Court for ulterior motives. The process of Court cannot be permitted to be misused.

In view of the above and especially in the light of the fact that the present contempt petition is not bonafidely filed by the petitioners, the same stands dismissed.

20th August, 2018
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(AUGUSTINE GEORGE MASIH)
JUDGE

<i>Whether speaking/non-speaking</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>