

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

COCN No.434 of 2016 (O&M)

Date of decision: May 21, 2018

Gurdeep Kaur and another

...Petitioners

Versus

Balwinder Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.K. Singla, Advocate for the petitioners.

Mr. RVS Chugh, Advocate for the respondents.

Rajan Gupta, J.

Petitioners have preferred this contempt petition alleging violation of undertaking, Annexure P-5 and order dated 5.2.2016, passed by Civil Judge (Jr. Division), Ludhiana.

It has been urged before this court that petitioners have no other remedy except to approach this Hon'ble Court by way of this petition, as respondents have violated the undertaking as well as injunction order. They need to be proceeded against under the provisions of the Act. Operative order of the order passed by the court below reads as under:-

“Since, it is a case for permanent injunction seeking restraining order against the defendants from dispossessing the plaintiff illegally and forcibly from the suit property and when the counsel for defendants has already suffered a statement that he will evict the plaintiff by legal way. As such, no cause of action survives in the present suit. Accordingly, present suit is dismissed being infructuous. Parties are

bound by their statements and in view of above referred statements, defendants are also restrained from dispossessing the plaintiff from the suit property except by imbibing due course of law. File be consigned to record room.”

It is evident that in view of statement suffered by the defendant/ landlord that he would evict the petitioners by taking legal recourse, defendants were restrained from dispossessing the plaintiffs except in due course of law. It is inexplicable why petitioners have invoked the contempt jurisdiction of this court, in case order has been violated. Remedy under the Code of Civil Procedure was not exhausted by the petitioners before filing the instant petition. Normally contempt jurisdiction of this court would not be invoked for execution of orders passed by the civil court. The petition appears to be misconceived. This court has no doubt that contempt jurisdiction of this court has been invoked despite the fact that petitioners were in the knowledge of the fact that appropriate alternative remedy is available to them. Such petition needs to be discouraged. Same is, thus, dismissed with Rs.20,000/- as costs to be remitted to the respondents.

(RAJAN GUPTA)
JUDGE

May 21, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No