

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-April 26th, 2018

COCP No.704 of 2018(O&M)

Sukhbir Singh.

.....Petitioner.

Versus

Jasbir Singh & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Kamal Chaudhary, Advocate for
Mr. Sanjiv Gupta, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner Sukhbir Singh, has filed the present contempt petition under Section 12 read with Section 14 of the Contempt of Courts Act, 1971, for initiating contempt proceedings against the respondents for alleged violation of order dated 20/10/2015 (P-1) passed in CR No. 6805 of 2015 as well as order dated 12/04/2016 (P-2) passed in RSA No. 6075 of 2014.

Learned Counsel for the petitioner has argued that despite stay granted by this court in CR No. 6805 of 2015, whereby execution with regard to 16 kanals of land was stayed, the sale deed has been executed in favour of the respondents and further, it is argued that despite there being specific stay on alienation of the property passed in RSA No. 6075 of 2014 on 12.04.2016, respondent No.2-Jagdish Singh has taken loan upon the

property in question, which is evident from *Jamabandi* Annexure P-9. Thus, prayer has been made for initiating contempt proceedings against the respondents.

I have heard learned Counsel for the petitioner and perused the paper book with his able assistance. However, I do not find any merit in the present contempt petition and the same is liable to be dismissed.

It is evident from the record that in an execution petition filed by respondent Jasbir Singh, third-party objections were filed by the petitioner, whereby execution with regard to 16 kanals of land was stayed by this Court vide order dated 12.04.2016 in CR No. 6805 of 2015. However, it is evident from the record that sale deed in favour of the respondent already stood executed prior to the order passed by this court. It is another aspect that the sale deed was impounded due to insufficiency of stamp affixed on it. Meaning thereby, there is no violation of any order as far as stay being granted by this court qua execution, as the sale deed was already in existence prior to passing of the order.

As far as allegation of taking loan over the suit property, despite stay on alienation being there, it is evident from document Annexure P-9 that the respondent-Jagdish Singh has been shown owner of 30 Kanal-17 Marlas of land, upon which a loan of Rs.5 lakh has been taken from IDBI bank, by mortgaging it. Firstly, it is not clear from the remarks column as to when the loan was taken, because it merely mentions about the entry date in the remarks column and not about the date when the loan was taken. Not only this, even if it is taken that respondent has taken loan upon 30 Kanal 17 Marlas of land, after passing of order dated 12.04.2016, which allegedly includes 16 Kanals of disputed land, still, it cannot be stated that

the respondent-Jagdish Singh cannot obtain a loan of Rs.5 lakh upon the land which is un-partitioned. Further, in view of the fact that entire land is either *Nehri* or *Chahi* (i.e highly cultivable land) the court takes judicial notice of the fact that the value of remaining land would be higher than the loan of Rs.5 Lacs which has been taken by respondent.

In view of the above, finding no merit in the present contempt petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

April 26th, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>