

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3142 of 2018(O&M)
Date of Decision: 11.05.2018

Sher Mohd.(since deceased) through his LR's Petitioner

Versus

Municipal Council Nabha & anr. Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. B.S. Jaswal, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, petitioners have laid challenge to order dated 26.04.2018(Annexure P-6), providing police help to the bailiff of the Court to deliver possession of the suit land in compliance of judgment and decree dated 10.08.2004 of the trial Court, which has been upheld upto this court.

Learned counsel for the petitioners *inter alia* contends that under the garb of the judgment and decree aforesaid, the decree-holder Municipal Council, Nabha with malafide intention is intending to take possession of Khasra Nos.771 to 775, which were never subject matter of the suit for possession filed by the decree-holder Municipal Council. The executing Court may be restrained from executing the decree beyond Khasra No.802, for which the suit of the respondent-Municipal Council Nabha for possession was decreed.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioners, I find that the instant petition is completely devoid of any merit for the reasons to follow:-

Plea of the petitioners that under the garb of the judgment and decree

dated 10.08.2004, respondent-decree holder Municipal Council Nabha is intending to dispossess the petitioners from other khasra number also, which were never the subject matter of the suit, has no legs to stand in the absence of any evidence to this effect. Vide impugned order, only police help has been provided to execute the decree aforesaid. There is no mention in it for delivery of possession to the respondent-Municipal Council beyond Khasra No.802 for which the suit of Municipal Council Nabha was decreed.

The petitioners, under the garb of this frivolous petition, want to retain the possession of the suit land illegally raising false and frivolous pleas not based on any material or evidence. It is pertinent to mention here that the petitioners are enjoying the possession over the suit property illegally since date of judgment and decree aforesaid by abusing the process of law. The respondent-decree holder is a Municipal Council, for which none of its official has any personal interest and thus, would not commit any illegal activity to make him liable for any legal action. From this angle also, the plea taken by the petitioners is completely frivolous.

In view of discussion made above, the petition fails and is dismissed.

11.05.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No