

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

CR No.7418 of 2015

Date of Decision:-15.01.2018

Gurmit Singh

...Petitioner

Versus

Lakhwinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

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

Mr. P.S. Gullani, Advocate
for the respondent.

AMIT RAWAL J.(Oral)

Petitioner-plaintiff is aggrieved of the impugned order dated 20.7.2015 (Annexure P-8) whereby his application for restoration of the contempt petition accompanied by an application seeking condonation of delay dismissed in default vide order dated 02.8.2010.

Mr. Jaswal, learned counsel appearing on behalf of petitioner submitted that the petitioner-plaintiff filed a suit with the prayer for perpetual injunction restraining the defendants from interfering in the free flow of the water through the water channel Nos.33, 34 and 50 of Village Rikhia, Tehsil Batala, District Gurdaspur or dismantling the same illegally, forcibly or without any due course of law, against the following persons :-

“Gurmit Singh s/o Sh. Sukha Singh s/o Sh. Mangal Singh, R/o Village Rikhia, Tehsil Batala, District Gurdaspur.

....Plaintiff

vs.

1. Beant Singh,
2. Nirmal Singh sons of Rattan Singh,
3. Amarbir Singh,
4. Harpreet Singh,
5. Parambir Singh sons of Sh. Beant Singh,
6. Manpreet Singh,
7. Gurpreet Singh alias Gopa sons of Nirmal Singh,
R/o Village Rikhia, Tehsil Batala, District
Gurdaspur.

....Defendants”

The suit was accompanied by interim application and vide order dated 31.7.2006 interim order was passed whereby the defendants were enjoined. They violated the order resulting into filing of the contempt petition on 7.8.2007 in which the defendants were convicted vide order dated 29.11.2014, though by the lower Appellate Court have been acquitted as per the order dated 14.10.2016 but later on it transpired that even the present respondent Lakhwinder Singh who was also the henchman of the defendant, violated the order. The second contempt petition was filed on 18.3.2008 (Annexure P-4) by making a specific prayer. The petitioner had noted the wrong date with regard to the listing of the contempt resulting into dismissal in default on 2.8.2010. On acquiring the knowledge, he moved an application for restoration on 27.1.2011 but the same has wrongly been dismissed vide order dated 20.7.2015. No harm and loss would be

caused in case the application is restored to its original number further with the terms and conditions as the Court deems fit, as no person can be permitted to go scot-free without giving any due regard in respect to the orders of the Court even of the trial Court or of the High Court.

Learnerd counsel appearing on behalf of the respondent Lakhwinder Singh submitted that in the second application (Annexure P-4) there is no specific averment with regard to the violation of the contempt by Lakhwinder Singh except a bald statement in paragraph 3 that Lakhwinder Singh was party man of the defendants but however with regard to the other averments it would emanate that it was the defendants who violated the order. The factum of conviction and acquittal is not being disputed and urge this Court for dismissal of the revision petition and no useful purpose would be served in disposing of the present petition.

I have heard learned counsel for the parties and perused the case file carefully.

The facts as mitigaged above are not in dispute. Except a bald allegation in paragraph 3 of the Annexure P-4 there is no other specific allegation that at any point of time defendants had violated the injunction order of the Court. It would be appropriate to quote paragraph 3 and paragraph 6 of the application, which reads as under :-

“3. That, the above said order was passed on 31.7.2016 which was duly served on the said defendants immediately. The respondent who is the party man of the said defendant was also having the full knowledge of passing of the stay

order in favour of the plaintiff-applicant.

4. xxx xxx
5. xxx xxx
6. That plaintiff-applicant had also approached to the department of canal and drainage for the restoration of the Khal already existed and demolished by th said defendants, the said department, on inquiry found that there was a Khal which has been demolished by the said defendants and was ordered to be restored in its original condition.”

There is specific allegation of the alleged violation of the order against the defendants not against the respondent. In my view, even if the application seeking contempt against Lakhwinder Singh is restored, no useful purpose would be served as petitioner would not be able to prove the alleged allegations. It is in my view the exercise would be in futility. Even otherwise no explanation has come forward in not moving the application within limitation. I do not find any fault and illegality in the order dated 20.7.2015 passed by the learned trial Court.

Therefore, the present civil revision is hereby dismissed.

January 15, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No