

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

**CRM-M No.14762 of 2013 (O&M)
Decided on: 30.10.2018**

Sher Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Nipun Vashisth, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. J.P. Sharma, Advocate
for respondents No.2 to 8.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting-aside the order dated 05.04.2013 passed by the Sub-Divisional Magistrate, Mohindergarh (Annexure P1) vide which the proceedings under Section 145 of the Code of Criminal Procedure (in short 'Cr.P.C.') were initiated and invoking Section 146 Cr.P.C., the Naib Tehsildar, Mohindergarh was appointed as 'Receiver' as well as for setting-aside the order dated 01.05.2013 (Annexure P2) passed by the Additional Sessions Judge, Narnaul, vide which the order dated 05.04.2013 (Annexure P1) was upheld.

Status report by way of affidavit of Satender Kumar, Deputy Superintendent of Police, Mohindergarh on behalf of respondent No.1 filed in the Court is taken on record along with the report of Naib Tehsildar dated 21.09.2018 (Annexure R1), in which it is

stated that in pursuance to the impugned order dated 05.04.2013 passed by the Sub-Divisional Magistrate, Mohindergarh, the land in dispute was attached and the possession was taken by the Naib Tehsildar as 'Receiver' and the details of the year-wise auction proceedings vide which the lease amount received and deposited in the Government Treasury, is also given in the affidavit.

Counsel for the parties are *ad idem* that as on today, the 'Receiver' is in possession of the disputed land and the civil suit filed by the petitioner – Sher Singh against the defendants – Dhan Singh and others, bearing civil suit No.629 of 2012 was dismissed on 20.02.2017, and the civil appeal is pending before the Additional District Judge, Narnaul.

The parties are also *ad idem* that in view of the fact that the matter is now *sub judice* before the Civil Court, the impugned orders passed by both the Courts below be set-aside and the parties be relegated to their remedy before the Lower Appellate Court/Additional District Judge, Narnaul for deciding the *inter se* dispute between the parties.

In view of the above, both the impugned orders dated 05.04.2013 (Annexure P1) passed by the Sub-Divisional Magistrate, Mohindergarh and dated 01.05.2013 (Annexure P2) passed by the Additional District Judge, Narnaul, are set-aside and both the contesting parties are relegated to their remedies before the Additional District Judge, Narnaul.

It will be open for the parties to move an appropriate application for taking back the possession from the 'Receiver' as well as

The Additional District Judge, Narnaul may pass an order independently or at the time of final disposal of the appeal, considering the fact that the possession is with the 'Receiver'.

Till the Additional District Judge, Narnaul take an independent decision on the application of either of the parties for handing back the possession, the possession will remain with the 'Receiver'.

(ARVIND SINGH SANGWAN)
JUDGE

yakub

Yes/No

Yes/No