

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-33747-2014

Date of decision: 27.08.2018

Sukhdev Kaur

..... Petitioner

Versus

Gurmit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Deepak Aggarwal, Advocate for the petitioner.

Mr. KS Brar, Advocate for

Mr. IS Brar, Advocate for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., challenge has been laid to order dated 12.08.2011 (Annexure P-2) of the Sub Divisional Magistrate, Bathinda and order dated 14.07.2014 (Annexure P-4) of the learned Additional Sessions Judge (Fast Track Court) Bathinda, dismissing the revision of the petitioner.

In nutshell, petitioner purchased 6 kanals 4 marlas of land from one Gurpreet Singh S/o Balwinder Singh, vide registered sale deed dated 07.05.2007 (Annexure P-1) along with all rights appurtenant thereto including water course running through the abutting embankment of the fields of Sukhdev Singh. According to the petitioner, the said water course was illegally demolished by the respondents in the early hours of dated 05.11.2010. Consequently, she approached the Sub Divisional Magistrate, Bathinda for initiating proceedings against the respondents under Section

147 Cr.P.C., who after affording opportunity of hearing to both the sides dismissed the application vide order dated 12.08.2011 (Annexure P-2).

Being aggrieved, the petitioner approached the Revisional Court, Bathinda, who also finding no merit in the revision dismissed the same vide order dated 14.07.2014 (Annexure P-4).

Learned counsel for the petitioner *inter alia* contends that the Sub Divisional Magistrate, Bathinda as well as the Revisional Court, have illegally non-suited the petitioner, despite concrete evidence before them that respondents have demolished the water course in question illegally to cause loss to the petitioner.

On the other hand, learned counsel for the respondents vehemently, opposing the above submissions, contends that there was no sanctioned water course at the spot. The petitioner has already approached the canal authorities under the provisions of Northern Indian Canal and Drainage Act, 1873. Therefore, her complaint under Section 147 Cr.P.C., before SDM, Bathinda, was not maintainable.

Having considered the rival submissions made by both the side, this Court finds that the instant petition is meritless for the simple reason that appropriate remedy for the petitioner was to approach the Canal Authorities, to get the water course in question restored at the spot. Instead, she approached SDM, Bathinda, for initiating proceedings against the respondents under Section 147 Cr.P.C., without any allegation that there exists any threat of breach of peace at the spot which was a condition precedent under Section 147 Cr.P.C. Therefore, in the considered opinion of this Court, application of the petitioner under Section 147 Cr.P.C. has

rightly been dismissed by the SDM, Bathinda.

I have carefully gone through the impugned orders Annexures P-2 and P-4 and find no illegality or perversity in the same.

The instant petition being meritless is dismissed.

August 27, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No