

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43756-2018 (O&M)

Date of Decision:- 5.10.2018

Dalvir Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Arihant Goyal, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

Petitioner seeks quashing of complaint B.T. No.74 dated 1.7.2011 (complaint No.58 of 24.4.2008) pending in the Court of learned Additional Chief Judicial Magistrate, Barnala as well as all the consequent proceedings arising therefrom.

The main contention of learned counsel for the petitioner is that in fact an another complaint with identical allegations against the petitioner had been filed against petitioner and others on 10.2.2009 which was dismissed by learned Additional Chief Judicial Magistrate, Barnala vide order dated 22.8.2016 (Annexure P-3) and that in these circumstances, the present complaint based on similar allegations cannot continue and was abuse of process of law and in fact was not maintainable.

The allegations, in nutshell, are that one Harjit Kaur through her attorney Gurdarshan Singh had entered into an agreement for sale of a land to Kesar Singh vide agreement dated 22.9.2003 but subsequently Harjit Kaur resiled from the terms and conditions of the agreement constraining the petitioner Kesar Singh to file a civil suit for specific performance against Harjit Kaur and her attorney Gurdarshan Singh and another attorney Harminder Singh wherein interim directions were issued restraining the defendants to alienate the suit property. However, Gurdarshan Singh later sold the part of the suit property to Dalvir Singh and Gurjit Singh.

The other complaint i.e. complaint No.10 dated 10.2.2009 was dismissed mainly on the ground that Gurdarshan Singh had expired and that the other two accused namely Dalvir Singh and Gurjit Singh i.e. the purchasers of the property, are not a party to the civil suit and thus could not be said to have any knowledge regarding the interim directions issued by the Civil Court. The present complaint filed on somewhat identical allegations had been filed earlier in the year 2008 wherein summoning order was passed in the year 2014 i.e. on 23.1.2014 (Annexure P-3). The said summoning order till date, obviously has not been set aside as the trial is still proceeding.

Without expressing any opinion regarding the merits of the case, I find that it is a case where the petitioner has approached this Court after a gross delay inasmuch as the complaint was filed in 2008. Even the summoning order had been passed way back, in the year 2014. In these circumstances, this Court does not find any reason to interfere with the matter at this belated stage. The petition, as such, is dismissed on delay and latches.

It is however, clarified that it will be open to the petitioner to raise all the points, raised before this Court, at the time of final arguments before the learned trial Court which shall be duly considered by the learned trial Court.

Since the complaint has been pending since the last about one decade, the trial Court shall endeavour to dispose of the complaint expeditiously, preferably within a period of one year from today. The complainant shall ensure the presence of his witnesses on the date fixed for recording complainant’s evidence.

October 5, 2018
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No