

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

**CWP No.1223 of 2015
Decided on : 11.09.2018**

Surjit
State of Haryana & others

Versus

....Petitioner
...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: None for the petitioner.

Mr.Sudeep Mahajan, Addl.A.G., Haryana.

Mr.Akshay Jindal, Advocate, for respondent No.7.

G.S. SANDHAWALIA, J. (Oral)

Petitioner seek quashing of the approach of respondent No.2 and the order dated 20.12.2014 (Annexure P-8) whereby directions have been issued for delivering possession of the land by the petitioner. The challenge is on the basis of a title and during the pendency of the civil litigation, interference was done in an illegal and arbitrary manner by the agencies of the State. The protection is sought on the basis of a sale deed dated 16.08.2005 (Annexure P-1).

A perusal of Annexure P-9 would go on to show that at the request of respondent No.7-Varinder Lakda, a request had been sought for a Revenue official to be deputed for delivering possession so that police assistance could be given as per the rules by the Police Station, Sector 4, Karnal, on 23.12.2014.

Counsel for respondent No.7 has very candidly brought before this Court an order dated 29.01.2016, passed by a Co-ordinate Bench in CR-3911-2015 titled *Surjit Singh Vs. Dhanpati Devi & others*, to point out that the petitioner has already been protected under Order 39 Rules 1 & 2.

A perusal of the said order would go on to show that the factum of interference by the official respondents was noticed by this Court while allowing the revision petition and protecting the petitioner during the pendency of the Civil Suit No.32 of 2014. Relevant portion of the judgment reads as under:

“There is another aspect of the matter that respondent No.12 Virender Lakhra himself moved an application (Annexure P18) to the Deputy Commissioner, Karnal, to provide the possession which shows that even he had not been handed over the possession, by erstwhile owner namely Jatinder Nehra. The contents of the letter read thus:

“To

The Deputy Commissioner

Karnal.

Subject: Application for delivering possession of land to applicant.

Sir,

It is submitted that I, Virender Lakda son of Sh. Krishan Chander Lakda, is resident of VPO Jahri, Tehsil and District Sonapat. Whereas land bearing Khewat No. 2058, Khatauni No. 3397, Khasra No. 41119 (2-8), measuring 1 Bigha 7 Biswas, situated in Sham Nagar, District Karnal, as per Jamabandi for the year 2004-05, is owned and possessed by me. The said land was Lakhmi Chand Nehra, resident of Village Hasanpur, Tehsil Gharaunda, District Karnal. Now, one Surjit son of Maman Singh, resident of House No. 953, Sham Nagar, Karnal is trying to take illegal possession over my above noted land with malafide intention. Whenever I use to go to my said land, he starts hurling abuses to you and threats to kill me and asks me not to come there again. He, being permanent resident of said locality, is claiming his right. I am

apprehending loss of life and property at the hands of said Surjit. Title Deeds of said land are enclosed herewith.

Hence, you are humbly requested to get delivered me possession of above noted land without having any clash or causing loss to life and property, so that no mishappening may take place in future. I will be thankful to you.

Thanking you,

Sd/-

Virender/Virender Lakda
Dated:27.11.2014 Son of Sh. Krishan Chander
Lakda, R/O VPO Jahri,
Tehsil & District Sonapat
Mobile No. 9991309027
P.S. City, Karnal District Karnal
Subject: Regarding delivering possession of land.
Sir,

With regard to your office letter No. 1734/Steno dated 2.12.2014, it is submitted that as is mentioned by you in the letter, Virender Lakda, complainant, son of Sh. Krishan Chand Lakda, resident of village Jahri, Tehsil and District Sonapat is owner of land measuring 1 bigha 7 biswa as per revenue record, on which, Surjit Singh son of Maman Singh, resident of House No. 953, Sham Nagar, Karnal is claiming his ownership and Surjit Singh is in possession of the same. In this connection, if the applicant is required to be given possession of above land then some revenue office may be deputed for delivering possession, so that Police assistance may be given as per rules.

Report is submitted before you

Sd/-

Police Post Section 4, Karnal
Police Station City, Karnal.

Dated 23.12.2014

Forwarded Please.

Sd/-

Insp/SHO

Police Station City, Karnal.

24/12/14”

All these factors lead me to form an opinion that there has been compliance of the essential ingredients of the Order 39 Rules 1 and 2 CPC, in essence, the petitioner-plaintiff has a prima facie case, much less, balance of the convenience lies in his favour and in case, the respondents-defendants are not enjoined in the alleged interference of the exclusive possession, he would suffer irreparable loss. Since, the petitioner-plaintiff has undertaken to conclude the evidence as expeditiously as possible, I deem it appropriate to issue directions to the trial Court to conclude the trial as expeditiously as possible by giving four effective opportunities to both the parties to the lis and thereafter, decide the suit, in accordance with law.

In view of what has been observed above, the impugned orders dated 19.05.2015 and 30.05.2015 are hereby set aside and the application filed under Order 39 Rules 1 and 2 CPC is allowed. The respondents-defendants along with their Agents, attorneys, servants etc., in the Civil Suit bearing No.32 of 2014, titled as “Surjit Singh V/s Dhanpati Devi and others” are hereby enjoined and are restrained from interfering in the exclusive possession of the land measuring 1 bigha 15 biswas out of Khasra bearing No.4119, Khewat No.1605.

It is made clear that the petitioner-plaintiff shall not alienate the land, during the pendency of the suit.

Anything observed herein shall not affect the merits and demerits of suit in respect of the pending adjudication.

Accordingly, the revision petition is allowed.”

Mr.Jindal further points out that the Civil Suit is now at the
fag end and the proceedings are likely to conclude.

Keeping in view the above, once the protection has already
been ordered by this Court, qua the dispute, the present writ petition is
disposed of, as having been rendered infructuous, to that extent.
However, a caveat is added that the official respondents would not, as
such, violate the order of this Court, in any manner and would keep their
hands off the dispute, as already been directed, since the parties have
already resorted to seek their legal redressal before the Civil Court.

11.09.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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