

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

CWP-7333-2013 (O&M)
Date of decision : 16.11.2018

Kuldip Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Singh, Advocate,
for the petitioner.

Ms. Bhawana Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought quashing of order dated 13.03.2003 (Annexure P-4), passed by respondent No.2, whereby, a penalty of stoppage of five annual increments with cumulative effect had been imposed upon the petitioner; order dated 12.04.2004 (Annexure P-6), vide which the appeal preferred by the petitioner against order Annexure P-4, had been rejected; and order dated 25.08.2011 (Annexure P-9), whereby the memorial submitted by the petitioner was also rejected.

It is contended that the petitioner joined the services of the respondent-Department as Naib Tehsildar, in the year 1990. Subsequently, he was promoted as Tehsildar in the year 1995. On 10.10.1997, while being posted as Tehsildar at Amloh, the petitioner exercising the power of Sub

Registrar, registered certain documents including one sale deed bearing No.1074 executed by Rajinder Pal Singh in favour of one Harbans Kaur wife of Rajinder Singh. The first charge against the petitioner is that he antedated the said sale deed. However, this allegation is negated from the affidavits of the complainants, Tej Kaur and Harwinder Kaur to the effect that they had appeared before the petitioner (being Tehsildar) on 10.10.1997 and objected to the registration in question. Even from the report of the inquiry officer, it is clearly established that the sale deed had been registered on 10.10.1997. The second charge against the petitioner with regard to lack of jurisdiction is also misconceived as the Sub-Registrar of Mandi Gobindgarh, had to attend the Court proceedings on that date and therefore, was not available for registration of the sale deed. The petitioner being the Tehsildar, was fully competent to perform the duties of Sub-Registrar.

On the other hand, learned State counsel submits that stay was operating qua the property in question till 09.10.1997. On 10.10.1997, learned Presiding Officer proceeded on leave, whereas, 11.10.1997 and 12.10.1997, were holidays. When the matter was taken up on 13.10.1997, the stay was extended. In spite of having knowledge of the stay order passed by the Civil Court, the petitioner registered the document with mala fide intention to give undue benefit to one Rajinder Pal Singh. In support of her contention, she refers to the report of preliminary enquiry, wherein, said Rajinder Pal Singh has stated that he had tried to get the document registered through Naib Tehsildar, Mandi Gobindgarh, but the latter refused to do so on account of the stay order. The village in which the land was

located fell in the jurisdiction of Joint Sub-Registrar, Mandi Gobindgarh, who was on duty on 10.10.1997, therefore, the petitioner ought not have registered the document and the registration has been done with *mala fide* intention.

Heard.

In the instant case, a complaint was filed by one Harvinder Kaur, wife of Rajinder Pal Singh, against the petitioner alleging that the petitioner being the then Tehsildar, registered a sale deed despite the stay granted by the Court of learned Additional Civil Judge (Senior Division), Amloh, against alienating the property in question. On the complaint so filed, a preliminary inquiry was got conducted by the Deputy Commissioner, Fatehgarh Sahib through Additional Deputy Commissioner, Fatehgarh Sahib, wherein, it was found that said Harvinder Kaur had obtained stay order qua the property in question in a maintenance suit filed against her husband. The stay was operating till 09.10.1997, which fact was admittedly in the knowledge of the petitioner. In spite of that, the petitioner took advantage of the gap between 09.10.1997 to 13.10.1997 during which period the matter could not be taken up by the Court, the property in question was transferred and the sale deed was registered by him. Even though the stay order was upto 09.10.1997, the petitioner, being a responsible officer of the State, ought to have taken into consideration the circumstances in which the stay order could not be extended. To the contrary, the petitioner, for some extraneous reasons, took refuge of the technicalities to defeat the ends of justice.

Moreover, it has come on record that said Rajinder Pal Singh had earlier on the same day, tried to get the document registered on the which was refused by Naib Tehsildar, Mandi Gobindgarh. The assertion of the petitioner that Naib Tehsildar was on leave on the relevant date, is also found to be against the record.

The penalty of stoppage of five increments was imposed on the petitioner by adopting proper procedure and after affording due opportunity of hearing to him. Therefore, no illegality or perversity can be said to have been committed while passing the impugned orders which may call for interference by this Court.

In view of the above, the instant petition being devoid of any merits, is hereby dismissed.

Dismissed.

16.11.2018

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No