

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30887-2017 (O&M)
Date of Order:14.11.2019

Harcharan Singh and another

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Gupta, Advocate
for the petitioners.

Mr. SPS Tinna, Addl. A.G., Punjab

Mr. H.S.Brar, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

It is unfortunate that family members rather than doing some constructive work are litigating in Courts. Civil litigation is sought to be given colour of a criminal offence.

Lakha Singh was common ancestor of the parties. He had 3 sons, namely, Harcharan Singh, Sukhdev Singh, Gurdial Singh(died in the year 1985) and one daughter, namely, Gurdeep Kaur apart from wife Charan Kaur. On the death of Lakha Singh in the year 1973, as per The Hindu Succession Act, 1955, property fell to the share of 5 Class-1 heirs, namely, Harcharan Singh, Sukhdev Singh, Gurdial Singh, Gurdeep Kaur and Charan Kaur. Gurdial Singh, although, married with Gurmeet Kaur but was not having any child. On the death of Gurdial Singh in the year 1985, his share of the property was mutated in favour of Charan Kaur (Mother) in the year 1988.

It is the case of the petitioners herein that Gurmeet Kaur had since re-married out of the family, therefore, she relinquished her share in favour of Charan Kaur. Police after investigation has found that no case is made out against Charan Kaur.

Sukhdev Singh filed this present FIR alleging that Charan Kaur had given a wrong affidavit that Gurdial Singh died unmarried and issueless. Charan Kaur also executed a Will in favour of his two sons Harcharan Singh and Sukhdev Singh. She also gave on lease some land to Sukhdev Singh but thereafter transferred entire property through registered sale deeds and a transfer deed in favour of his son Harcharan Singh and his grand son Surinder Singh. Petitioners are beneficiaries of the sale deeds and a transfer deed executed by their mother and grand mother. Will executed by Charan Kaur would come into operation only on her death. Charan Kaur is not disputing the transfer of the property in favour of her son and grand son.

It is also not in dispute that one suit filed by Sukhdev Singh, first informant, has been dismissed, whereas second suit for declaration is pending. Police during investigation has verified from legal heirs of Gurmeet Kaur (who has also died) that their mother had relinquished her share in favour of Charan Kaur. Gurmeet Kaur or her legal heirs have never claimed any right in the property left by late Sh. Gurdial Singh.

In view of the aforesaid, the criminal proceedings initiated are not only abuse of the process of law but also give rise to civil dispute, for which, the suit is already pending.

Considering the peculiar facts and circumstances of the case noted above, FIR No.166, dated 19.09.2014, registered under Sections

420/465/467/468/471/120-B IPC, at Police Station Navi Baradari, Jalandhar City and the consequential proceedings arising therefrom are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

November 14, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No