

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

**CRR No.3465 of 2014 (O&M)
Date of Decision:09.04.2019**

Harbhajan Singh and another

...Petitioners

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Rishabh Gupta, Advocate for the petitioners.
Mr.Bhupinder Beniwal, AAG, Punjab.
Mr.Munish Puri, Advocate for the LRs of compainant.

ANIL KSHETARPAL, J.

The petitioners are aggrieved against the judgment dated 7.10.2014 passed by the learned Additional District Judge, Gurdaspur, reversing the judgment passed by the learned trial court and convicting the petitioners under Section 447 and 506 of the Indian Penal Code and awarding them rigorous imprisonment for a period of two years.

A reading of the judgment proves that the learned Additional District Judge has held that the petitioners trespassed into the land on the basis of order of status quo dated 25.05.2006 passed in RSA No.1964 of 2006. This case was initiated on the complaint of Smt.Guro, who had alleged that the petitioners have trespassed into her land. She had also filed a civil suit challenging the sale-deed, a special power of attorney and a general power of attorney executed by her on the ground that the same are result of fraud.

It may be noticed, at the outset, that RSA No.1964 of 2006 filed by Smt. Guro has already been dismissed vide judgment dated 01.03.2019. The learned trial court had acquitted the petitioners after appreciating the evidence and after recording the sound and cogent reasons, however, the learned first appellate court, as noticed above, based its entire judgment on the basis of interim order passed by this Court. While granting status quo, the Court only orders that the position as it exists should be maintained and the Court does not either prima facie or finally determine which party is in possession. Thus, the learned first appellate court was in error, while convicting the petitioners for trespass only on the ground of status quo. As noted above, even that order of status quo has ceased to exist in view of the decision in Regular Second Appeal.

In view of the above, the present revision petition is allowed. Consequently, the judgment passed by the learned Additional District Judge, Gurdaspur, is set aside, whereas that of the learned trial court is restored.

09.04.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No