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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-2115-2019
Date of decision: 14.10.2019

NAZAR SINGH

.. PETITIONER

VERSUS

SH DAMANJIT SINGH MANN AND ORS

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.K.Kheterpal, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

AVNEESH JHINGAN, J. (Oral)

The parties are in civil suit claiming that their shares in property comprised Khasra No. 91/2 measuring 01 Kanal 08 Marlas. There is an allegation that the suit property was given to Roor Singh , Prem Singh, both s/o of late Sh. Joginder Singh. During the pendency of the suit, application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short “the CPC”) was filed interim injunction. The Civil Court vide order dated 03.04.2013 allowed the application and directed the parties to maintain status quo regarding the suit property. The order was challenged in appeal. The Appellate Court vide order dated 03.07.2014 set aside the order passed by the Civil Court. Aggrieved of the said order, the petitioner filed Civil Revision No. 4985 of 2014, the Civil Revision was allowed on 28.04.2017 and the order of the Appellate Court

was set aside. It was ordered that the interim protection granted by the trial Court under Order XXXIX Rules 1 and 2 of the CPC shall continue to operate. The present contempt petition has been filed alleging wilful disobedience of the protection granted under Order XXXIX Rules 1 and 2 of the CPC.

Pursuant to notice of motion, short replies by way of affidavit of Sh. Iqbal Singh Sandhu, PCS, Collector-cum-Additional Deputy Commissioner, Ludhiana and Sh. Kuldeep Singh, the then Halqa Patwari, Village Gobindgarh filed in Court are taken on record. Copies of the replies are handed over to learned counsel for the petitioner.

Learned counsel for the respondents contends that there is a remedy with the petitioner to move an application under Order XXXIX Rule 2 (A) of the CPC.

Learned counsel for the petitioner submits that Order XXXIX Rule 2 (A) of the CPC cannot be invoked as the order in the present case has been passed by the High Court.

The argument raised by the learned counsel for the petitioner is not well founded. In the Civil Revision only, the interim protection granted by the Civil Court has been restored by the setting aside the order of the Appellate Court. The order passed under Order XXXIX Rules 1 and 2 of the CPC was restored by High Court in civil revision. In case, if there is allegation of violation of protection granted by the said order, there is specific remedy provided under Order XXXIX Rule 2 (A) of the CPC. The provision is quoted below:-

*“2A. Consequence of disobedience or breach of injunction.-
(1) In the case of disobedience of any injunction granted or other Order made under rule 1 or 2 or breach of any of the terms on which*

the injunction was granted or the Order made, the court granting the injunction or making the order, or any court to which the Suit or proceeding is transferred, may Order the property of the person guilty of such disobedience or breach to be attached, and may also Order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.”

The Supreme Court in the case of ***Food Corporation of India Versus Sukh Deo Prasad, 2009 AIR (SC) 2330*** held that the provisions under Order XXXIX Rule 2 (A) of the CPC are equivalent to the power to punish for the civil contempt under the Contempt of Courts Act, 1971.

Relying upon ***Sukh Deo Prasad's case (supra)***, the Apex Court in ***Kanwar Singh Saini versus High Court of Delhi, 2012 (4) SCC 307*** held as under:-

“In Food Corporation of India Versus Sukha Deo Prasad, 2009 (2) RCR (Civil) 834; 2009 (3) Recent Apex Judgment (R.A.J.)159, this Court held that the power exercised by a Court under Order XXXIX Rule 2A is punitive in nature, akin to the power to punish for civil contempt under the Act 1971. Therefore, such powers should be exercised with great caution and responsibility.”

Contempt of Court is essentially a matter which concerns the administration of justice and the dignity and authority of Courts and Judicial Tribunals.

For the aforesaid facts and reasons, this petition for alleged violation of interim order passed by Civil Court is liable to be dismissed.

However, the petitioner would be at liberty to avail remedies in accordance with law.

14th October, 2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : *Yes*

Whether reportable : *Yes*