

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7424-2019
Date of decision: 04.12.2019

Mohan Singh

.....Petitioner

versus

Bhola Singh and others

.....Respondents

CORAM: Hon'ble Mr. Justice Deepak Sibal

Present: Mr.Jashandeep Singh, Advocate for the petitioner

Deepak Sibal, J. (Oral)

The present petition is directed against the order dated 28.04.2015 passed by Additional Civil Judge (Senior Division), Tarn Taran (for short, the Trial Court) dismissing an application filed by the petitioner under Order 39 Rule 2A CPC through which he had alleged that the respondents had violated the exparte injunction granted in his favour by the Trial Court on 27.02.2001. Also under challenge is the order dated 04.05.2019 passed by the Additional District Judge, Tarn Taran (for short, the Appellate Court) through which an appeal filed by the petitioner against the aforesaid dismissal of his application by the Trial Court has also been dismissed.

The undisputed facts, in brief, which would be required to be noticed for adjudicating upon the present petition are that the petitioner had filed a suit against Bhola Singh, Jatinderjit Singh, Piara Singh and Kashmir Singh seeking therein to restrain them from forcibly and illegally removing Sri Guru Granth Sahib and demolishing Sri Nishan Sahib installed in village Gurudwara Dhotian(for short, the suit property). The petitioner's suit was

allowed by the Trial Court through an ex-parte judgment and decree dated 27.02.2001.

The petitioner filed an application under Order 39 Rule 2A CPC against the respondents, who were 14 in number, alleging them to have committed contempt of the aforesaid decree of the Trial Court dated 27.02.2001. After considering the pleadings of the parties and the evidence led by them, through order dated 28.04.2015 the Trial Court dismissed the petitioner's application. An appeal preferred by the petitioner against the aforesaid order of the Trial Court met the same fate as his application occasioning the filing of the present petition before this Court.

Learned counsel for the petitioner has been heard.

A perusal of the ex-parte judgment and decree of the Trial Court dated 27.02.2001 reveals that through the same respondent nos.1 to 3 as also Piara Singh had been restrained from removing Sri Guru Granth Sahib from the suit property as also demolishing Sri Nishan Sahib installed in the suit property. Admittedly, no restraint order was passed against respondent nos.4 to 11. Since the ex-parte judgment and decree of the Trial Court dated 27.02.2001 was not a judgment *in rem* but *in personem* and that no evidence oral or documentary was led by the petitioner with regard to any conspiracy by the said respondents with respondent nos.1 to 3, no error is found in the order of the Trial Court and the Appellate Court in dismissing the petitioner's application qua them.

So far as respondent nos.1 to 3 are concerned, PW2 Dalip Singh who appeared as a witness of the petitioner and is his father, admitted during his cross-examination that respondent nos.1 to 3 did not play any role in removing of Sri Guru Granth Sahib from the suit property. The

petitioner's witnesses also did not deny the fact that Sri Guru Granth Sahib was removed from the suit property under directions from Sri Akal Takhat Sahib, Amritsar by the members of Dharam Parchar Committee, against whom, the petitioner had not made even an allegation for having committed contempt. Further, though it was the case of the petitioner that about 20-25 persons were present at the time of removal of Sri Guru Granth Sahib, none of these persons was joined as a witness by him.

In the light of the above, the petitioner's contempt petition is also found to have been rightly rejected by both the Trial Court as also the Appellate Court.

Dismissed.

04.12.2019

gk

**(Deepak Sibal)
Judge**

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No