

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

**Contempt of Court Petition No.2111 of 2015 (O&M)
Date of Decision: February 28, 2020**

Ram Sarup

.....PETITIONER(s).

VERSUS

Sanjay Kumar and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Kamal Sharma, Advocate
for the petitioner (s).

Mr. Sandeep Singh Mann, Sr. D.A.G. Haryana.

Mr. R.N. Lohan, Advocate
for respondent No.2.

SURINDER GUPTA, J.

Petitioner seeks initiation of proceedings under Section 12 of Contempt of Courts Act against respondent Sanjay Kumar and another for willful disobedience of order dated 11.05.2011 passed by learned Sessions Judge, Jind, which reads as follows:-

“Heard.

The appellant has miserably failed to show me any locus standi to get the impugned order stayed because ownership of dispute property is of *Jumla Musterka Malkan* means common property. Hence, finding no justification for staying the impugned order, the application in this respect is hereby dismissed. However, it is observed that in case, disputed land is leased out by Gram Panchayat, its lease money shall be

kept intact by it till further orders. To come upon 10.6.2011, date already fixed for issuing notices to the respondents.”

Learned counsel for the petitioner has argued that the respondent in violation of this order, has spent the lease money collected by Gram Panchayat, Butani. In support of his contention, he has referred to a report of Sub Divisional Magistrate, Safidon dated 26.11.2012 (Annexure P-9), which shows that an amount of ₹28,30,502/- was withdrawn by the respondent from the Panchayat funds.

Vide order dated 04.04.2019 in this petition, a report from the Deputy Commissioner, Jind was called on the following points:-

“a) How much was the total lease amount received by the respondent after 11.05.2011, in view of order passed by the Sessions Judge, Jind (Annexure P-4) as also the money received from the receiver after 01.08.2011 (Annexure P-6).

b) Whether the said amount was spent after these dates and if so, how much of the total amount was spent in violation of the order ?

Both the parties were given the liberty to produce the documents to enable the Deputy Commissioner to record finding.

In his report, Deputy Commissioner, Jind has stated the following facts:-

- “(i) Gram Panchayat, Butani received a sum of ₹5,60,800/- after 11.05.2011 on account of lease of *Shamlat* land for the year 2011-12.
- (ii) Gram Panchayat received a sum of ₹63,22,012/- from Receiver between 27.05.2011 to 14.06.2011.
- (iii) As per the expenditure report, Gram Panchayat

had spent a sum of ₹28,39,502/- for various development works and routine expenses till 31.07.2011.

(iv) Gram Panchayat has not spent any amount after 01.08.2011.”

Learned counsel for the petitioner has argued that as per report of the Deputy Commissioner, Jind, amount of more than ₹28 lakhs was spent by the respondent in violation of order of the Court dated 11.05.2011. He has also argued that Deputy Commissioner has given his report against the report of Sub Divisional Magistrate, Safidon (Annexure P-9).

This argument of learned counsel for the petitioner is devoid of any merit as the amounts stated to have been spent by the Gram Panchayat in the affidavit filed by the Deputy Commissioner, Jind and Sub Divisional Magistrate, Safidon is similar.

The question, which arises for consideration is as to whether there is any violation of the order dated 11.05.2011 passed by learned Sessions Judge, Jind.

Vide order dated 11.05.2011, Gram Panchayat was restrained from spending the lease money. It is not disputed that the lease money was ₹5,60,800/-. There is no reference in this order regarding the money received by the Gram Panchayat from Receiver. The above order was extended on 10.06.2011 till 11.08.2011 (the date 11.08.2011 has been taken from the copy of order placed on file as Annexure P-5). It appears that the file was taken up on 01.08.2011 and following order was passed:-

“Vakalatnama filed on behalf of the respondent no.14 and 28 to 30. Correct address of respondents no.2, 3, 25 and 27 not filed. Same be filed within three days and

then notice be issued to them for 5.9.2011 through ordinary process as well as registered cover. It is made clear that if this time their correct address is not furnished, present appeal shall be dismissed for want of prosecution. However, in view of persistent request made by some of the respondents, Gram Panchayat is hereby restrained for all intents and purposes for utilizing even a single penny received from the receiver and from lease money of the attached land. It is made clear that if it will violate this order, same shall amount to embezzlement by its Sarpanch or Members.”

It is evident that on 01.08.2011, Gram Panchayat was restrained from utilizing any amount received from the Receiver and also from lease money of the attached land. Learned Sessions Judge has also taken cognizance of the contempt petition filed by the petitioner before him and passed the order as follows:-

“In view of submissions of both the side at bar, the present appeal is dismissed having been become infructuous. However, contempt petition of respondent no.14 Ram Sarup be separated and sent to Sub Divisional Magistrate, Safidon with the direction to conduct and conclude the proceedings in it after due notice to the parties within three months positively and to report to this court, failing which appropriate action shall be taken against him for dereliction and negligence in his duties including request to the Chief Secretary to initiate departmental action against him. To come upon 10.12.2012. File be consigned to the record room after due compliance.”

In compliance of above order, Sub Divisional Magistrate,

withdrawn by the respondents from the Panchayat fund up to 31.07.2011. The order of learned Sessions Judge dated 10.09.2012 (ibid) was set aside in CRM-M-36876-2012 with the observations that Sessions Judge has no power to entertain the contempt petition and he could not delegate this power to the Sub Divisional Magistrate.

From the facts as discussed above, it is evident that learned Sessions Judge has directed the respondent not to utilize the amount deposited by the Receiver vide order dated 01.08.2011 and thereafter, not even a single penny deposited by the Receiver has been utilized. So far as the lease money is concerned, same is lying deposited, as such, there is no violation of the order passed by learned Sessions Judge, calling for any contempt proceedings against the respondent under Section 12 of the Contempt of Courts Act.

This petition has no merits. Dismissed.

February 28, 2020
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***