

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

Sr. No.113

CWP No.2975 of 2020

DECIDED ON: February 04, 2020

PARAMJIT KAUR

..PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. H.B.S. Baidwan, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner has filed this writ petition as respondent No.2 has allegedly issued warrants of possession in respect of the land in dispute.

2. The facts in brief are reproduced.

3. The land in dispute measuring 15M was originally owned by one Parwar Chand who mortgaged the same in favour of one Bishan Singh in the year 1958. On the death of Bishan Singh, the mortgagee rights were inherited by his sons Sewa Singh, Prem Singh and Pritam Singh. In the year 1973, said Parwar Chand sold the land to one Usha Kumari along with rights of redemption. Said Usha Kumari further sold the land to Dalbir Singh and Didar Singh in the year 1984. Dalbir Singh and Didar Singh allegedly filed a redemption application but the same was dismissed in default on 11.10.1988. Thereafter, the successors-in-interest of the original mortgagees filed a suit for foreclosure of the mortgage which was decreed

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ex parte in the year 2000. The ex parte decree was set aside vide order dated 11.12.2007 on an application filed by aforementioned Dalbir Singh and Didar Singh. A second application for redemption was then filed which was allowed vide order dated 24.11.2016. Meanwhile, the petitioner had purchased the land in dispute from the successors-in-interest of the original mortgagee vide sale deeds of the year 2005 and 2008. She challenged the order dated 24.11.2016 by way of a civil suit *inter alia* on the ground that she had not been heard in the application for redemption and that the second redemption application is not maintainable. However, the suit was dismissed vide judgment and decree dated 30.05.2019 (Annexure P-6) and appeal there against is pending. Meanwhile, notice dated 31.10.2019 (Annexure P-8) has been received by the petitioner from the Court of Sub-Divisional Magistrate/Collector/Assistant Collector 1st Grade, Mohali for appearance on 13.11.2019. The petitioner has appeared on 13.11.2019 and has filed an application dated 21.11.2019 (Annexure P-9) requesting the Court to adjourn the matter sine die as appeal against judgment and decree dated 30.05.2019 (Annexure P-6) is pending. However, no order has been passed upon the application necessitating the filing of the present writ petition.

4. Learned counsel for the petitioner has submitted that the proceedings pending in the Court of Sub-Divisional Magistrate/Collector/Assistant Collector 1st Grade, Mohali are without jurisdiction as appeal against the judgment and decree in civil suit is pending. Thus, the said official cannot proceed further in the matter.

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5. On being asked, as to why this submission could not have been made before the Appellate Court, no satisfactory answer is forthcoming.

6. At this stage, learned counsel for the petitioner submits that a direction may be given to respondent No.2 to decide the pending application expeditiously.

7. The writ petition is disposed of with a direction to respondent No.2 to decide the pending application dated 21.11.2019 (Annexure P-9) expeditiously and in any case not later than four weeks from the date of receipt of certified copy of this order.

February 04, 2020

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable No