

202

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

**CWP-15726 of 2019 (O&M)
Date of Decision: 19.11.2020.**

Sukhminder Kaur

...Petitioner

V/S

State of Punjab & Ors.

....Respondents

CORAM: HON'BLE MR JUSTICE ARUN MONGA

Present : Ms. R.K. Grewal, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG Punjab.

Mr. P.S. Khurana, Advocate
For respondent No.5.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. The grievance of the petitioner, *inter alia*, is qua impugned report dated 03.05.2019(Annexure P-14), whereby respondent No.4-Naib Tehsildar, Mullanpur Dakha (Ludhiana) has observed as below:-

“On the above mentioned subject it is humbly prayed that as per the report called upon by you, the site was inspected. After inspection of the site khasra No. 35//19/3-20-21-22-23/1-27-38//5/2-6/1-15-39//1/2-9/3-10-11-20/2-45//1/2-10/1, total fields 17 measuring 91-15, out of the same land measuring 57-8 is recorded under the ownership of Sukhminder Kaur d/o Sukhdev Kaur and 11-9 is recorded under the ownership of Satwant Singh s/o Komal Singh and 7-12 is recorded under the ownership of Surinder Kaur widow and Rajpal Singh-Rajbir Singh sons of Harsom Singh and 7-13 is recorded under the ownership of Jasbir Kaur d/o Harjinder Singh and 7-13 is recorded under the ownership of Bhupinder widow and Devinder Singh son of Kuldev Singh and Khasra No. 35//9/3-12-13-18-19/1, total fields 5 measuring 27-9, out of the same Sukhwinder Kaur daughter of

Sukhdev Kaur was recorded as owner of 4 kanal and Satwant Singh son of Komal Singh is recorded as owner in respect of land measuring 6 kanals 17 marlas and Jasbir Singh son of Rajinder Singh is recorded as owner of 6 kanal 17 marlas and Bhupinder Kaur widow, Devinder Singh son of Kuldev Singh is recorded as owner of 4 kanal 11 marlas and Surinder Kaur widow-Rajpal Singh-Rajbir Singh sons of Harsom Singh is recorded as owner of 5 kanal 2 marlas. In these khasras, Sukhminder Kaur is recorded as owner of total land measuring 61 kanals 8 marlas.

Now today on 2.5.2019 I reached the site along with Halka Patwari and Kanungo. On the spot Gurjit Singh Namberdar was present. On these khasras on about 16 kanals 17 marlas the wheat crop is standing there. Out of the total ownership 7-8 kills of wheat crop has already been harvested by Sukhjit Kaur with regard to this land they are having dispute from long time with regard to the possession of the same. Both the parties have got a dispute with regard to title which is pending before the Hon'ble Court. On the dispute land Sukhjit Kaur etc. have sown the wheat crop. There is a possibility of a dispute with regard to the harvesting of the wheat crop which could lead to damaged(sic.) the life and property. As such keeping in view the law and order situation, you are requested to appoint Duty Magistrate so that untoward incident could be prevented. Report is being submitted."

2. Upon issuance of notice of motion by this Court in the writ petition, a joint return by way of affidavit has been filed by SDM, Ludhiana, (West) on behalf of official respondents No.1 to 4, which is taken on record, wherein following stand has been taken:-

"1. That the present writ petition is not maintainable against the answering respondents. The answering respondents have been unnecessarily arrayed as respondents in the present writ petition. Earlier the then Naib Tehsildar, Mullanpur Dakha, District Ludhiana made a report dated 03/05/2019, with regard to property situated at village Hassanpur, District Ludhiana, but

inadvertently some facts regarding possession have been wrongly mentioned in the said report. Now again the respondent No.4 i.e. Naib Tehsildar, Mullanpur Dakha, District Ludhiana got inspected and got prepared the report from the field staff and as per the report and as per the revenue record it is found that petitioner Sukhminder Kaur daughter of Komal Singh son of Kartar Singh is owner in possession of the property in dispute and even the possession of Sukhminder Kaur is duly supported by the entries of Khasra Girdwaries. At the time of inspection and preparing the report the crop of paddy has sown over the property in dispute. As per revenue record Smt. Sukhjit Kaur respondent No.5 is neither owner nor in possession of the property in dispute and there is no entry in the revenue record i.e. jamabandi or khasra girdwaries in the name of Sukhjit Kaur with regard to the property in dispute. The translated copy of report bearing No. 214 dated 25/06/2020, prepared by Naib Tehsildar, Mullanpur Dakha i.e. respondent No.4 is annexed herewith as Annexure R-1/A. Thus, the present writ petition be disposed off accordingly.”

3. A perusal of aforesaid affidavit vis a vis observations in the report (supra) show that there is something more than meets the eye, as both are in contradiction of each other. Be that as it may, it seems to be a case of civil dispute between the petitioner and respondent No.5 and can not be adjudicated under extra ordinary writ jurisdiction. The same is accordingly best left to be dealt, in accordance with law, by Civil Court concerned, where the matter is already stated to be pending. This Court refrains to interfere in the *inter se* pending civil dispute between the private parties.

4. However, in the peculiar circumstances, since the conceded case of official respondents is that the petitioner is the owner and in possession of the land according to revenue records, instant writ petition is, therefore, disposed of with a direction that threat perception expressed by the petitioner in the instant writ petition coupled with her representation dated 05.01.2019 (Annexure P-

17) made to police authorities be got verified by the Station House Officer of area concerned. In case he feels that the same is genuine, appropriate steps shall be taken in accordance with law to protect the life and liberty of the petitioner, given that she is a widow and senior citizen aged about 72 years.

5. Disposed of in above terms, with liberty to petitioner to challenge the impugned report as above, by way of alternative remedy, as may be admissible, in accordance with law.

November 19th, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No