

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

C.R. No. 2627 of 2020
Date of decision: 11.12.2020

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Satbir Singh

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Lalit Pardhan, Advocate, for the petitioner.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

In the present revision petition filed by the petitioner-plaintiff, the challenge under Article 227 of the Constitution of India is to the dismissal of the applications under Order 39 Rules 1 and 2 CPC vide impugned dated 07.08.2020 (Annexure P-8) by the Additional Civil Judge (Sr. Divn.), Kanina, District Mahendergarh. The order of the Lower Appellate Court whereby, his appeal was also dismissed on 15.10.2020 (Annexure P-10) is also impugned.

The petitioner was seeking ad-interim injunction against the recovery of Rs.6,61,370/- by virtue of notice dated 08.06.2020 (Annexure P-4) issued under Section 53 of the Haryana Panchayati Raj Act, 1994 on earlier dates on 18.03.2019 and 10.04.2019, which was on account of a loss which had been done while the development work was being carried out by the elected representative.

Notice of motion.

Mr. RKS Brar, Addl. A.G., Haryana accepts notice on behalf of the respondents.

Contention of counsel for the petitioner is that the tenure of the

petitioner on the elected post of Sarpanch was for the period 2010-2015 and, therefore, there is a limitation provided of six years from the occurrence of the loss, waste or mis-application or a period of 2 years' is provided from the date of ceasing to be a Sarpanch. It is on this account, he challenges the non-grant of interim injunction by the Courts below which have come to the conclusion that the plaintiff would be entitled to recover the amount deposited by him and no irreparable loss to the plaintiff would be caused as the balance convenience does not lie in his favour. It has been held that there is no irreparable loss since there was a report dated 10.12.2018 which had been prepared and show cause notice as such had been issued to him to attend the proceedings which he had not done.

The Appellate Court has also found that an order was passed by this Court in ***CWP No. 2659 of 2018, Lokender Singh vs. State of Haryana and others*** on 27.05.2019 (Annexure P-3), in which, the petitioner was a party as respondent no. 6 and directions were issued as such to take action on the report. Resultantly, it observed that in his suit, declaration of notices as void as such had been taken but limitation was not the ground on which the suit was based. Resultantly, it was held that triable issues were involved and injunction was not liable to be granted.

Counsel for the petitioner has, thus, submitted that he would be put to loss as such if he has to deposit the amount during the pendency of proceedings.

State, on the other hand, has justified the order on the ground that as per the report dated 10.12.2018 (Annexure P-2), message had been sent to the petitioner to attend the inquiry proceedings and he had chosen not to do so. Therefore, it would be a matter of evidence whether the

construction was done or not though payments had been withdrawn.

Keeping in view the above stand of the State and the fact that the interest of the petitioner can be protected to the extent that if the amount is deposited by him before the Trial Court, the said amount can be put in a fixed deposit receipt to earn the highest rate of interest, to be disbursed to the successful parties after the decision of the civil suit, which course of action is also agreeable to counsel for the petitioner.

In such circumstances, the petitioner would suffer no loss as such as his amount would be secure and earn the highest rate of interest and he would be entitled to take it back in case he is successful in the suit for setting aside of the notice and the grounds which he may take before the trial Court.

Accordingly, keeping in view the above, the present revision petition is disposed of with direction that in case the petitioner deposits the above said amount of Rs.6,61,370/- with the Trial Court, the same shall be kept in a fixed deposit receipt to earn the highest rate of interest during the pendency of the suit. The amount should be disbursed to the successful party at the end of the trial. In case the amount is not deposited within a period of two months, it will be open to the respondent-State to recover it in accordance with law.

11.12.2020
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No