

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 978 of 2021

Date of Decision: 15.01.2021

Neha Thapar alias Neha

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Swarn Tiwana, Advocate
for the petitioners.

Anil Kshetarpal, J.

The petitioner has filed this writ petition praying for grant of the following substantive reliefs:-

“i) Issue appropriate writ order or direction especially in the nature of nature of Mandamus directing the official respondents to take action against the private respondents who are alienating the property in spite of the fact that the stay has been granted by the Ld courts below and further prayed to issue directions to the respondents No. 1 to 4 to take strict action against the officials as well as the private persons who in connivance with each other are not stopping the construction as well as execution of sale deed in spite of fact that the petitioner obtained the stay and other orders on the property in her favour from the Courts;

ii) Further prayed for issuance of directions to the respondent No.3 to decide the representation dated 21.12.2020 (Annexure P-7) given by the petitioner to the respondent No.3

as till date no action is taken on the said representation by the respondent No. 3 and the same is lying unattended in his office.

iii) Further prayed that during the pendency of present petition, the status quo may kindly be granted with regard to the property in dispute and construction going on as the concerned respondents are not taking the Court seriously in spite of the order passed in favour of the petitioner”.

The petitioner is the wife of respondent No.11 and daughter-in-law of respondent No.12. There is a marital discord between the petitioner and her husband. She filed a petition for grant of maintenance pendente-lite which was decreed on 20.07.2017. It was directed that she would be entitled to maintenance at the rate of ₹ 5,000/- per month from the date of institution of the suit and the same shall constitute first charge on the property specified in the order. Para 8 of the judgment reads as under:-

“Thus, in view of the foregoing discussion and on the basis of unrebutted evidence adduced by the plaintiff, the suit of the plaintiff succeeds and same is hereby partly decreed with costs only against defendant no.1 for maintenance @ 5,000/- per month ₹ from the date of institution of suit. The same shall constitute first charge on the property of defendant no. 1 i.e. 13/32 share in property comprised in khewat no. 480/454, 449, 447, khatouni no. 996, khasra no. 7//6/1, 7/1, 14, 15, 16/1, 17/1 total measuring 24 kanal. It is however, made clear that the charge created above shall not effect the right/title/interest of any third party acquired prior to filing of

instant suit”.

The petitioner is alleged to have filed an appeal before the learned Additional District Judge, Fatehgarh Sahib, which is stated to be pending. On 31.10.2018, the learned Additional District Judge, Fatehgarh Sahib stayed the operation of the order passed by the learned lower Court and restrained the respondents from making further alienation and parting with possession of the property to any third person.

As noticed from the reliefs sought, the petitioner has invoked the extraordinary jurisdiction of this Court for similar reliefs. The petitioner cannot be permitted to avail two parallel remedies.

Keeping in view the aforesaid facts, the petitioner is relegated to the remedy before the Court of learned Additional District Judge.

With the observations made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

January 15, 2021
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No