

**218-3 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1) CR-4757-2017
Date of decision: 24.09.2021

Tarun Bajaj Petitioner

versus

Achal Singla and others Respondents

2) CR-4770-2017

T.L. Satya Parkash Petitioner

versus

Achal Singla and others Respondents

3) CR-5002-2017

Yudhvir Singh Malik Petitioner

versus

Achal Singla and others Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Himanshu Arora, Advocate
for the petitioner (in CR-4757-2017).

Mr. Pritam Singh Saini, Advocate
for the petitioners (in CR-4770-2017 and CR-5002-2017).

Mr. Mukul Aggarwal, Advocate
for respondent No.1.

None for respondents No.2 and 3.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case had been taken up for hearing through video conferencing.

The above detailed three civil revisions under Articles 226/227 of the Constitution of India having consanguinity of facts and law point and being an outcome of similar orders are being taken up together for disposal for the sake of brevity.

Heard.

One-Achal Singla, who is respondent No.1, in all these petitions, was earlier a plaintiff, who had filed a suit for declaration to the effect that he was entitled to allotment of Industrial Plot measuring 2758.80 square yards situated in Industrial Development Colony, Hissar. The Court of the learned Civil Judge (Junior Division), Hissar, decreed the suit with a clause holding that the plaintiff, now respondent No.1, was entitled to be considered for the allotment of Industrial Plot regarding which, the suit in question has been filed. In light of judgment decree in the suit, the Haryana State Industrial and Infrastructure Development Corporation Limited (in short 'the Corporation') considering the earlier restoration/re-allotment of the plot made in favour of one, Mr. Himanshu Bindal, as legal heir of ex-allottee, cancelled this re-allotment/restoration vide order dated 10.03.2016.

It is, thereafter, respondent No.1-Achal Singla, moved an application under Order 39 Rule 2 (A) of CPC seeking initiation of

contempt proceedings against the present petitioners, numbering 03, who all happened to be functionaries of the Corporation at one point of time. During the course of proceedings on the application, in the reply, the then defendants accepted that the Corporation had refunded the amount, so paid, in respect of allotment of the plot in question on account of pendency of Civil Suit by the original allottee and the stay order having been granted by the Appellate Court. It was observed that since, stay was in operation, the claim of respondent No.1-Achal Singla could not be considered for allotment of the plot. It is also claimed in the contempt application that the present petitioners, who were the then defendants, had authorized their G.P. along with Sh. Surjeet Singh, who made a statement in the Court on 18.03.2008 on behalf of the defendants that the applicant for the plot should be considered as a single applicant and claimed that since, the original suit of the then plaintiff-Madan Lal Gupta (original allottee) was dismissed, the present petitioners did not consider the claim of the applicant-Achal Singla for the allotment of the plot in question and rather, have illegally decided to allot the plot in question to one-Himanshu Bindal who is alleged to be the legal heir of the original allottee, Sh. Madan Lal Gupta.

It is during the course of pendency of the contempt petition of Achal Singla, an application was moved by the present petitioners, seeking dismissal of the contempt petition, the same is based on the grounds claiming that initially, the case was looked

after by the District Industries Centre, which was working earlier and was then transferred by the Haryana Government vide order dated 03.02.2012 and since, the record of the various cases was not passed on to the Corporation, the petitioners were unaware of what has earlier transpired. It is reiterated that one-Himanshu Bindal, nephew of the original allottee, approached the officers i.e. the petitioners, for out of Court settlement on 09.12.2013, requesting for restoration of the allotment of the plot and laid his claim being legal heir of the original allottee-Sh. Madan Lal Gupta, who has since expired. The Corporation considered his request and allowed the same being unaware of the fact as to what has transpired in the Civil Suit nor it was ever brought to their knowledge. It is reiterated that none of the petitioners were ever at fault and sought dismissal of the application.

The Court, through the impugned order dated 04.07.2017, had dismissed the application of the present petitioners for dropping the contempt proceedings on the grounds that since, issues have been framed in the main petition, it is only after the evidence that the worth of the stand of the parties would be looked into. It is against these very orders dated 16.05.2016 and 04.07.2017(Annexures P-6 and P-8, respectively, in CR-4770-2017 and CR-5002-2017) which were passed and is subject matter of dispute before this Court. It is nowhere suggestive or specifically averred that the revisionists were responsible for making a statement in a Court of law. The statement so alleged to have been made is by one, Sh. Surjeet Singh, which is

nowhere attributable to be at the behest of the petitioners. More so, there is no figment of averment that the petitioners were fully aware of the passing of the said order or was brought to their notice by the plaintiff, main applicant, in the contempt petition. It is a classical case where two Civil Courts have passed different orders on different suits by different parties in respect of the same very plot certainly intrigues the Court. It is not expected that the petitioners would be in a position to comply with any of such self-contradictory and self-defeating orders. Courts should be slow to interfere with the actions of the State and Public Sector Undertakings, where orders of a Court are likely to have a far reaching financial and administrative consequences. Since, nothing could be brought to the notice of the Court as to the act of the petitioners being illegal or *malafide* or fraudulent, therefore, refrains this Court from interfering by a Civil Court in the functioning of Government undertaking. On one hand, heirs of a deceased, an allottee, is seeking allotment when the same stood cancelled and on the other hand, the person moving the contempt application is trying to lay claim to the same very plot barely on the basis of statement by a insignificant obscure official, who is nowhere shown to be an authorized person to make the statement on behalf of the Corporation. No doubt, the power of the Court under Order 39 Rule 2 (A) of CPC is inevitable in nature but at the same time, the person who complains of disobedience or violation has to clearly make out, beyond any doubt that there was an order

directing respondents, against whom, the application is made to desist him and considering the present case, the order on the basis of which, the contempt application has come about, is a creation of liability over the Corporation in favour of the applicant when it none existed resulting in consequences having financial affects upon the Corporation. Since, the property in question is an industrial plot of massive market value, what appears to the mind of this Court that a deceptive way has been chalked out to defeat the interest of the State-Corporation. The Courts cannot take over the reins of the Corporation and start legislating as to how it is supposed to make allotment and on what grounds, when the Act and the Rules governing the Corporation, have clearly laid down the manner of such an allotment. To the mind of this Court, the very approach of person who moved the contempt application, appears to be not *bona fide* or with clean hands. More so, the present revisionists, who were impleaded as party, in the said suit, were not aware of any such orders passed by the Court as to how the applicant of the contempt application claims himself to be an aggrieved person or that the petitioners have committed a default undermining the orders of the Court. The Court below, in the impugned findings, under challenge, appears to have taken a casual approach, firstly, by taking up the contempt application along with the suit and without consolidating the two, have framed common issues besides the impugned order in question dated 04.07.2017 is cryptic, non-speaking and does

not spell out why the Court does not feel it convenient and appropriate to allow the application. By putting such senior functionaries of the Corporation, who are senior officers of the administrative services for prolonged trial, would not only be torturous, impregnated with agony but also contrary to the principles of law. The orders being unsustainable and therefore, are set aside, the instant revision petitions stand allowed.

Disposed off.

24.09.2021
Neha

(FATEH DEEP SINGH)
JUDGE

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