

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105)

CRM-M-38099 of 2020 (O&M)
Date of Decision: 08.01.2021

Ram Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Lajpat Sharma, Advocate, for the petitioners.

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

By this petition filed under the provisions of Section 482 of the Cr.P.C., the petitioners seek quashing of the impugned order dated 25.10.2017 (copy Annexure P-7) passed by the Executive Magistrate-Sub Divisional Magistrate, Guhla, District Kaithal (respondent no.2 herein), whereby the proceedings under Sections 145 and 146 of the Cr.P.C. have been initiated and possession of the land of the petitioners was taken by respondent no.2, on a “Calendera” dated 09.10.2017 filed by respondent no.4, with a further prayed made to issue a direction to respondents no.2 and 3 to hand over the possession of the land in question to the petitioners, till the final adjudication of the civil proceedings pending between the parties.

They also seek that during the pendency of the present petition, the operation of the impugned order dated 25.10.2017 may be stayed.

Learned counsel for the petitioners submits that once a civil suit has been instituted by the petitioners seeking a declaration to the effect that they are owners of the land in question and that the sale deeds executed by the

defendants in the civil suit are therefore liable to be cancelled/treated to be *non est*, the Executive Magistrate (SDM, Guhla) would have no power to interfere in the matter even under Sections 145 and 146 of the Cr.P.C.

Upon query of this court, he also points to the interim order passed by the learned Addl. Civil Judge (Sr. Divn.), Guhla, Kaithal, dated 03.09.2019, by which the defendants in the suit were restrained from alienating the suit land.

Upon a specific query as to when the civil suit was instituted by the petitioners, he seeks time to take instructions, but with him otherwise being under the impression that it was after 25.10.2017.

That being so, I do not see how the argument raised herein above is even vaguely sustainable, with the order of the learned Executive Magistrate having been passed even prior to the institution of the civil suit.

On a specific query put to him, counsel for the petitioner has also submitted that the said order was not in the knowledge of the learned Civil Judge.

For him to take instructions as to when the civil suit was actually filed and instituted, the matter is being passed over, with it made clear that if counsel for the petitioners does not come back with the correct information within today before the rising of the court, this petition shall be deemed to have been dismissed, with the aforesaid contention obviously wholly unsustainable.

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The matter having been passed over, he has taken instructions to the effect that the suit was instituted in 2019, i.e. much after the impugned order was passed.

Upon having submitted the aforesaid facts, Mr. Sharma, learned counsel for the petitioners, submits that he may be permitted to withdraw this petition.

Though correctly it should only be allowed to be withdrawn after imposing heavy costs for wasting the time of the court, however, it is ordered to be simply dismissed as withdrawn.

Since the main petition itself has been withdrawn, no order is required to be passed in the application seeking impleadement of other respondents in the array of parties (CRM no.29476 of 2020), which is disposed of as having been consequently rendered infructuous.

08.01.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No