

COCp-359-2020

Date of Decision : 08.03.2022

Hari Singh

...Petitioner

versus

Margaret Alice Skinner and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Nitin Jain, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Sections 11 and 12 of the Contempt of Courts Act, 1971 is for initiating proceedings against the respondent for intentional and willful defiance of order, Annexure P/1 dated 21.11.2018, in CR-3441-2018.
3. A perusal of order Annexure P/1 dated 21.11.2018 reveals that CR-3441-2018, was disposed of with the following observations:-

“Thus, even if the respondents cannot be restrained from alienating their shares in any such suit property, in my opinion, during the pendency of the suit, the plaintiff is entitled at least to an injunction to the effect that the nature of the property as contained in the *khasra* nos. shown to be as *rastas*, should not be altered.

Consequently, this petition is partly allowed. The impugned order is set aside and that of the trial court is restored to the

above extent, i.e. that though the respondents would be entitled to sell their respective shares in the suit property, all passages shown as *Khasra* nos 367, 368, 369, 370 etc. shall not be altered to any other use during the pendency of the suit.”

4. Learned counsel contends that respondent Nos.1 to 7 i.e. vendors executed sale deed Annexure P/4 dated 07.01.2020, in favour of respondent Nos.8 to 14, in respect of the land which is the subject matter of CR No.3441-2018, including khasra Nos.367, 368, 369 and 370, which includes all *rastas* in the aforementioned khasra numbers and that respondent Nos.8 to 14 are raising construction over the said *rastas* which are part of aforementioned khasra numbers, therefore, respondent Nos.8 to 14 are liable to be proceeded against under the Contempt of Courts Act, 1971.

5. Notice has not yet been issued in the main case. However, on 10.11.2021, notice of the application for preponement of date of hearing was issued, whereupon, Mr. Sanjay Vashisth, Advocate put in appearance on behalf of respondent Nos.3 to 8, Mr. Salil Dev Singh Bali, Advocate puts in appearance on behalf of respondent Nos.10, 11, 13 and 17 while Mr. A.V.S. Barsat, Advocate, puts in appearance on behalf of respondent Nos.15 and 16.

6. Paragraph No.5(d) of the contempt petition reads as under:-

“because *rapat* No.00131 dated 16.12.2019, is nothing but the entry of order dated 21.11.2018, in the revenue record but still the respondents No.1 to 5 in connivance with the

remaining respondents sold the area of rastas and have gathered building material to raise construction over the same.:"

7. A perusal thereof reveals that the allegations against the respondents are of having sold the area and having collected building material to raise construction over the same. However, there is no averment nor has any been pointed out by learned counsel for the petitioner despite query, of there being any averments of the respondent No.8 to 14 i.e. vendees having violated orders Annexure P/1 dated 21.11.2018, in CR-3441-2018. A perusal of sale deed Annexure P/4 reveals that there is specific mention of orders dated 21.11.2018, in CR-3441-2018 in the sale deed. Relevant extract of the same is reproduced as under:-

“As per the interpretation and legal advice taken in view of the order of Honorable Punjab and Haryana High Court, Chandigarh dated 27.11.2018, in Civil Revision NO.3411 of 2018, titled as ‘Hari Singh vs. Margaret Alice Skinner and others’, whereas it was held that ‘though the respondents would be entitled to sell their respective shares in the suit property, all passages shown as Khasra No.367, 368, 369, 370 etc. shall not be altered to any other use during the pendency of the suit’, which is mentioned by the revenue department vide his rapat Number 00131 dated 16.12.2019. The sellers are selling their respective share of land and the buyers have also understood as per their respective legal advice that sellers are entitled to sell and to execute the sale

deed.”

8. Accordingly, in the light of position noted above and in the absence of any violation having been shown on the record, qua orders Annexure P/1 dated 21.11.2018, in CR-3441-2018, the instant petition is disposed of as not calling for any action against the respondents under the Contempt of Courts Act, 1971.

9. Needless to mention, in case the apprehension of the petitioner fructifies into actual violation of orders Annexure P/1 dated 21.11.2018, in CR-3441-2018, it would be open for the petitioner to take recourse in respect thereto, by way of appropriate proceedings, in accordance with law.

(B.S. Walia)
Judge

08.03.2022
rajesh

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