

**In the High Court of Punjab and Haryana at Chandigarh**

**CRM-M No. 29649 of 2019**

**Date of Decision: 09.5.2022**

Tilak Raj

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present: Mr. R.S.Mamli, Advocate  
for the petitioner.

Mr. Sumit Gupta, Addl. A.G., Haryana.

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**SURESHWAR THAKUR, J. (ORAL)**

1. It has been averred in the petition, that the complainant, and, his father are owners in possession of one nursery, situated at village Sunderpur, Tehsil Thanersar, District Kurukshetra, and, the nursery is known as Kaveri Nursery Farm House, Umri Raod, Radha Soami Satsang Ghar, Sunderpur, District Kurukshetra. It is further averred in the petition, that the complainant had developed the nursery in the year 2004. However, a dispute between HUDA, and, the complainant, and, his father arose, and, in respect of the above dispute, a *Civil Writ Petition No. 1887 of 2006*, titled 'Maya Devi versus State of Haryana', became instituted by the mother of complainant's father. However, during the pendency of the above writ petition, before this Court, a status quo order was passed, by this Court. Nonetheless, it is averred in the petition, that during the pendency of the above writ petition, before this Court, the accused started making interferences in the ownership, and, possession of the above nursery, and,

hence led the complainant's father to institute a civil suit. Moreover, on

8.5.2012, at about 4.00 P.M., the accused, and, some unknown persons, had allegedly entered into the land of the complainant with a tractor-trolley, despite that fact that qua the disputed land, as carried in Khasra No. 12/1, wherein a nursery is located, this Court had passed the status quo order.

2. The instant complaint became instituted before the learned trial Magistrate concerned, on 16.7.2012, and, became dismissed, through an order made on 10.11.2016, by the learned Magistrate concerned. The above order of dismissal of the complaint, by the learned Magistrate concerned, wherein became constituted offences under Sections 166, 148, 149, 217, 427, 441, 447, 461, 506, 120-B IPC, led the complainant to institute thereagainst a Criminal Revision Petition bearing No. 04 of 2017, and, the above criminal revision petition was dismissed, through an order made on 2.5.2019.

3. Consequently, the aggrieved complainant is led to institute thereagainst, the instant petition, cast under Section 482 Cr.P.C, wherein he makes a challenge to the impugned order(s) of dismissal, as made, upon the complaint Annexure P-1, by both the learned Courts below.

4. It is apparent from the above averments, that not only a writ petition, in respect of the disputed nursery, became instituted, before this Court, but also a civil suit at the instance of the aggrieved complainant, rather became also instituted before the Civil Judge concerned.

5. Be that as it may, the fact relevant for making a decision upon the instant petition, is embedded in the factum of a status quo order, in respect of the disputed nursery, being made by this Court, during the pendency of the Civil Writ Petition No. 1887 of 2006, and, as the above status quo order, is alleged to be breached at the instance of the accused-

respondents concerned, hence leading to the institution of a complaint (supra), before the learned trial Magistrate concerned. Primarily, any breach caused upon the order of status qua, as made by this Court, during the pendency of the above writ petition, was remediable only through the institution of a contempt petition, before this Court, rather by the aggrieved concerned. The reason for making the afore conclusion, arises from the fact that the Writ Court has jurisdiction superior to the jurisdiction of the learned Magistrate concerned, besides when the alleged breach of the apposite status quo order is, as stated (supra) remediable only through a contempt petition being instituted before this Court, thereupon, the learned Magistrate concerned, had no jurisdiction to entertain the complaint, in respect of the afore order, being allegedly breached, rather only this Court in a contempt petition, being filed within the above writ petition, held the exclusive jurisdiction to draw appropriate contempt proceedings against the contemnors concerned. Moreover, since it is not disputed amongst the learned counsels appearing for the contesting litigants, that though, the apposite contempt petition became filed within the Civil Writ Petition No. 1887 of 2006, but it is also farily submitted by all concerned, that the above contempt petition became dismissed as withdrawn. The sequel of the above contempt petition becoming dismissed as withdrawn, is that, hence the bar of estoppel, waivers, and, abandonments in respect of breach, if any, as caused to the status quo order, as passed by this Court, during the pendency of the writ petition (supra), completely estops the petitioner to thereafter, during the pendency of the writ petition, and, with respect to a similar cause of action, inasmuch as qua breach thereof, rather to institute a complaint before the learned Magistrate concerned. The reason for above is

that the verdict of dismissal, of the contempt petition, as made by this Court has the requisite binding and conclusive effect, and, completely barred the complainant to make a complaint in respect of any cause of action similar to the one as carried in the writ petition (supra), and, also in the contempt petition filed within the CWP (supra).

6. There is no merit in the petition, and, the same is hereby dismissed, given it being completely mis-constituted.

**(SURESHWAR THAKUR)**  
**JUDGE**

**May 09, 2022**  
**Gurpreet**

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