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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21994-2020
Date of decision: 12.05.2022

RAJINDER SINGH GILL

...Petitioner

VERSUS

STATE OF PUNJAB AND ORS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Arjun Shukla, Advocate
for the petitioner.

Mr. Pankaj Gupta, Addl. A. G., Punjab.

Mr. Aditya Pratap Duggal, Advocate
for respondent No.5.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of certiorari, for quashing the impugned order dated 20.03.2013 (Annexure P-12), passed by respondent No.2-Deputy Commissioner, Gurdaspur, on the basis of which, the property belonging to the petitioner stands attached in favour of respondent No.5-PUNGRAIN.

In brief, the facts are that the petitioner is owner of land situated in khasra No.18/12/2/2 (6-12), 19/1 (0-2), total area 6 kanals 14 marlas and khasra No.18/8/1/2 (0-2), 18/9/1 (2-3), total area 2 kanals 5 marlas, having purchased the same from one Daljinder Singh and Ajaypal Singh vide sale deed dated 15.09.2005, along with all rights of possession and ownership for a sum of Rs.7,54,000/- and a sum of Rs.2,54,000/-

respectively. The petitioner herein, who is a sole proprietor of M/s Gill Rice Mills was allegedly handed over paddy for milling for the year 2012-2013, which is the subject matter of dispute pending before the Arbitrator. This very subject matter regarding whether paddy had been allotted also became a subject matter in criminal proceedings wherein, the petitioner stands acquitted in FIR No.0073 dated 01.03.2013, under Sections 420/406 IPC, registered at Police Station Civil Lines, Batala.

Learned counsel for the petitioner herein would submit that M/s Gill Rice Mills had filed a suit for recovery of Rs.8,72,13,125/- along with interest, which suit for recovery stands decreed in favour of the said plaintiff. He submits that even the appeal against the said judgment and decree was dismissed and now second appeal are pending before this Court and in the execution proceedings, part payment stands made. He would contend that the petitioner is aggrieved against the order as passed by respondent No.2-Deputy Commissioner, Gurdaspur, regarding attachment of the property of M/s Gill Rice Mills, Batala, District Gurdaspur, in favour of PUNGRAIN, which letter had been issued on the receipt of a DO letter No.1239 dated 13.03.2013, from the office of the District Controller, Food, Civil Supplies and Consumer Affairs, Gurdaspur. The Deputy Commissioner, Gurdaspur, had asked the Sub-Registrar, Batala/Joint Sub-Registrar, Fatehgarh Churian, to attach the land belonging to the petitioner herein by making an entry in column No.11 of jamabandi of the ownership. It is contended that as on date, there is no Court order in favour of PUNGRAIN to warrant the issuance of such a letter and the same is wholly without jurisdiction. It is submitted that in fact, arbitration proceedings are still pending and there is a decree in favour of the petitioner

itself, wherein PUNGRAIN has the liability to pay almost Rs.8,72,13,125/- along with 18 % per annum interest, total amounting to almost Rs.18 crores. It is submitted that the order being without jurisdiction deserves to be set aside.

Notice of motion having been issued, reply has been filed.

Learned State counsel would submit that the impugned order has been passed by the Deputy Commissioner, Gurdaspur, only on account of a DO letter received from the office of District Controller, Food, Civil Supplies and Consumer Affairs, however, on the asking of the Court, learned State counsel is not able to give an answer in the affirmative that there is a decree in favour of the PUNGRAIN, for issuance of such a letter.

Learned counsel for respondent No.5- PUNGRAIN is unable to satisfy the question raised by the Court as to whether it has any Court decree in its favour for attachment to be made of the land belonging to the petitioner, who in fact is a decree holder by virtue of Civil Court decree already passed. He would, however, submit that the petitioner herein should have invoked the Civil Court jurisdiction to correct or delete an entry made in the revenue record as allowed under Section 45 of the Punjab Land Revenue Act, 1887. In this regard, he would rely upon the judgments rendered by this Court in **CR No.5595 of 2018** titled as “**Harbans Singh versus Harnek Singh and Others**”, decided on **18.09.2018** and in **CWP No.18414 of 2013** titled as “**Kashmir Kaur versus State of Punjab and Others**”, decided on **09.12.2014**.

I have heard learned counsel for the parties.

I find that there is no evidence available on the record nor any argument has been addressed as to under which provision of law could an

attachment of a property be made merely on the asking of respondent No.5-PUNGRAIN. Such order is held to be totally without jurisdiction and not sustainable. It is an admitted fact that PUNGRAIN is a judgment debtor in terms of the civil suit that was allowed in favour of the petitioner herein/petitioner's Rice Mills. The judgments as relied upon by learned counsel for respondent No.5-PUNGRAIN would not be applicable to the facts and circumstances of the present case considering that the petitioner is only laying his claim for having impugned order (Annexure P-12) set aside.

Consequently, the present writ petition is allowed and the impugned order dated 20.03.2013 (Annexure P-12), passed by respondent No.2-Deputy Commissioner, Gurdaspur, is set aside. It would be open for the petitioner herein to apply to the revenue authorities for correction of the entries made in the revenue record.

Before parting with this judgment, it is the opinion of the Court that the officers occupying seat of responsibility, as in the case in hand, to be careful in passing such orders merely on the basis of such a communication received. Such orders would reflect total non-application of mind.

12.05.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No