

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-51427 of 2021

Date of Decision: February 11th, 2022

Sujan Anand

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Vivek Sheoran, Advocate, for the petitioner.

Mr. Amreek Narwal, Deputy Advocate General,
Haryana.

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Sant Parkash, J

The case has been taken up for hearing through video conferencing.

The present petition has been filed under Article 482 Cr.P.C. for issuance of appropriate directions to the respondents for taking appropriate legal action against such persons who are forcibly trying to take possession of petitioner's industrial plot bearing No.1818, measuring 450 square meters, situated in Rai Industrial Area at District Sonapat and have been issuing continuous threats to her life and liberty, as also for issuing direction to the respondents to round up & marking over the plot; and click photographs qua its present status/ possession or in the alternative to appoint police personnel at the plot so as to ensure protection from forceful trespassing.

Succinctly, petitioner's husband Rajiv Gulati was the sole proprietor and owner of firm namely M/s U & R Manufacturers & Exports. The Haryana State Industrial Development Corporation (for short, 'HSIIDC') had conditionally allotted one industrial plot to the said firm but due to the terminal medical condition of petitioner's husband, the firm could not fulfill the conditions of allotment, as a result of which the plot was later on resumed by HSIIDC. Accordingly, decision of resuming of plot was challenged by way of filing Civil Writ Petition No.10352 of 2008, which was disposed of by this Court vide judgment dated 27.10.2009 (Annexure P-1) directing HSIIDC to consider allotment of a vacant plot in the same area. Pursuant to aforesaid direction, HSIIDC allotted another industrial plot measuring 450 square meters bearing No.1818, situated at Rai Industrial Area in District Sonapat, vide allotment letter dated 29.03.2010 (Annexure P-2).

Owing to the poor health and deteriorating medical condition as also for maintenance & looking after the plot, petitioner's husband got executed power of attorney dated 17.11.2012 (Annexure P-3) qua the said plot, in favour of petitioner, who is now looking after the same. Due to ill health, petitioner's husband passed away on 30.01.2015 and she became sole heir of the firm and other properties including the aforesaid plot. As the petitioner is resident of Delhi, a group of land mafia and comprising of certain people namely, Rajinder Singh, Sahil Chopra, Baljinder Singh, Parveen Choudhary and Karan Bhatia alongwith their associates tried to enter the plot premises in order to take forcible possession over the same. Within a period of last two months, they have threatened the watchman, broken locks, extended threats of dire consequences to the petitioner and have been building pressure to sell of the property to them as

per their rates and choices. Besides, they have also threatened to burn the vehicle of the petitioner parked inside the plot.

Due to the aforesaid threats, petitioner moved a representation dated 05.10.2021 (Annexure P-5) to the Chief Minister, Haryana for protection of her property pursuant to which OSD to Chief Minister, vide letter dated 05.10.2021 passed a written order intimating Chief Minister's desire for registration of FIR and taking of necessary action against the accused persons and also, for providing report of the same within a period of 15 days. Petitioner approached the office of respondent No.3 – Superintendent of Police, District Sonipat and produced the copy of letter dated 05.10.2021 but no action has been taken on the same till date.

Not only this, one Chanchal Gulati claiming to be the wife of her late husband, with an intention to grab the property, alongwith her associates, got one false FIR dated 0597 dated 21.10.2021 (Annexure P-8) registered under Sections 420, 465, 467, 468, 471 IPC, Police Station Rai, District Sonipat, against the petitioner. As the threats and apprehensions of grabbing the property did not stop, the petitioner sent another representation dated 18.11.2021 (Annexure P-9) to respondent Nos.2 to 4 but till date neither the petitioner has been called for recording any statement nor any prosecution has been launched pursuant to her complaints.

In compliance of order dated 09.12.2021, status report by way of an affidavit dated 21.01.2022 duly sworn by Vipin Kadiyan, HPS, DSP (HQ) Sonipat has been filed on behalf of the respondents.

While relying upon the contents of Status report, learned counsel for the respondents-State has submitted that the present petition is liable to be dismissed. The afore-mentioned FIR came to be registered on the

basis of a complaint made by Chanchal Gulati wife of late Rajiv Gulati, resident of 2B/38, 2nd Floor, Ramesh Nagar, New Delhi wherein she alleged that her marriage was solemnized with Rajiv Gulati on 12.12.1990 according to Hindu Rites & ceremonies and out of the wedlock, two children, namely, Priyanka and Raghav, were born in the years 1991 and 1996 respectively. Her husband Rajiv Gulati owned one proprietorship Firm in the name & style of M/s U & R Manufacturer Exporter. There is a plot No.1818, measuring 450 sq. meters situated in Phase 2, Industrial Area, Rai Sonipat which was allotted in the name of the aforesaid Firm vide allotment letter bearing No.HSIIDC-19345 dated 29/30.3.2010. Qua the said plot, her husband had also obtained the completion certificate after raising construction, establishing his industrial unit over the same. Unfortunately, her husband passed away on 30.01.2015 which fact was intimated by her to HSIIDC, Rai, Sonipat on 08.02.2015 and applied for transfer of the said plot in her and her children's name being the legally wedded wife and legal heirs of deceased Rajiv Gulati which was received in the office on 09.02.2015. In the meantime, one lady, namely, Sujan Anand (petitioner) also sent a letter dated 09.03.2015 in the office of HSIIDC qua the same plot by claiming herself to be the wife of Rajiv Gulati by procuring the forged document (Marriage Certificate dated 05.11.1999). In the said marriage certificate, the address of her husband Rajiv Gulati shown as B-14/12, double storey, Ramesh Nagar, New Delhi whereas in the year 1999, Rajiv Gulati alongwith his family had been residing at 1-B/46, 2nd floor, Ramesh Nagar, New Delhi. The house mentioning address i.e. B-14/12, double storey, Ramesh Nagar, New Delhi was taken on rent only in the year 2013 vide a rent agreement between her husband and landlord Rohit Bhatia on stamp paper No.IN-DL

3112992809107BL dated 02.07.2013. The complainant further alleged that marriage certificate dated 05.11.1999 furnished by the petitioner bears registration No.89 of Arya Samaj Mandir but in another document furnished by the petitioner, said registration No.89 belongs to the year 2013 which reflects that marriage certificate was procured by the petitioner fraudulently. In fact the petitioner, in the year 1999 was having one daughter, namely, Sahisha Grover from her husband Sanjay Grover, who is still alive. The complainant further stated that the petitioner had also furnished one document/undertaking of February 2018 with HSIIDC in which she herself stated that Rajiv Gulati has three legal heirs i.e. Sujan Anand (petitioner), Raghav Gulati and Priyanka Gulati whereas Raghav and Priyanka were born out of the wedlock of complainant and Rajiv Gulati and that, both of them attained majority and can also verify their factual status.

Learned State counsel has stated that on receipt of the aforesaid complaint, aforesaid FIR was registered and investigation was set into motion. There are two marriage certificates of the deceased Rajiv Gulati and petitioner, one in 1999 and other in 2018 both issued by Arya Samaj Mandir, New Delhi. The Mehant/President of the said institution gave in writing that the certificate made in 2018 was made by him and at that time the certificate of 1999 was not produced. In the Aadhar card of the deceased his address was mentioned as 82, Bhaira Enclave, Pachiam New Delhi which is the address of the petitioner.

Ld. Counsel for the state further argued that petitioner and Smt. Chanchal Gulati both is claiming to be legally wedded wife of the deceased and both of them have approached the authorities of HSIIDC, Sonipat for

transfer of the said plot alleging themselves to be the legal heirs of the deceased.

Ld. Counsel for the state further argued that as per the documentary evidence Chanchal Gulati, Raghav Gulati & Priyanka Gulati has executed a special power of attorney dated 19.08.2021 in favour of one Bijender Kumar son of Munshi Ram to deal with the affairs pertaining to plot no 1818, Industrial Area, Rai, Sonipat. Petitioner has furnished an undertaking in February 2018 which has been obtained from the office of Estate Manager, HSIIDC, Industrial Area, Rai, Sonipat which shows Raghav Gulati as son and Priyanaka Gulati as daughter and that said Raghav Gulati and Priyanka Gulati have given their affidavits to HSIIDC to the effect that entire plot be transferred in the name of petitioner, but no such affidavit has been supplied either to petitioner or HSIIDC, which shows the malafide on the part of petitioner to get the entire plot transferred in her name. In the said undertaking, which bears the signature of petitioner and witnesses Mahinder and Kripamohi, petitioner has specifically mentioned that deceased Rajiv Gulati has left behind only three legal heirs i.e. petitioner Sujan Anand as wife, Raghav Gulati as son and Priyanka Gulati as daughter.

Ld. Counsel for the state further argued that that petitioner has also filed a civil suit bearing titled as “Sujan Anand vs. General Public” which is pending in the court of learned Civil Judge (Jr. Div), Sonipat for 28.03.2022 for issuance of succession certificate of the assets of deceased in her name, in which complainant of this case namely Chanchal Gulati has moved an application under Order 1 Rule 10 CPC for arraying her as a party in the said case.

Ld. Counsel for the state further argued that investigation qua the same subject matter is being carried out in a very impartial manner and the title and possession of parties is under adjudication before learned Civil Court and despite issuance of notice, petitioner has not joined the investigation of the instant case nor the enquiry pertaining to the complaints moved by her and in her absence, further proceedings could not be conducted and as and when notice is tried to be served upon, she is not found present there and one person namely Amandeep has been found present there.

Ld. Counsel for the state further argued that investigation is still pending and the allegations and counter allegations of both the parties are purely subject to the conclusion of investigation. With regard to ownership and possession over the plot in question, civil litigation is pending between the parties and the title and possession over the property in question can be better determined by the Ld. Civil Court after evaluation and appreciation of evidence led by both the parties to this effect.

I have heard learned counsel for the parties and perused the record.

Admittedly, Rajiv Gulati was the sole proprietor of firm namely M/s U & R Manufacturers & Exports. He was allotted one plot by HSIIDC but due to non fulfillment of conditions of allotment, the plot was resumed by the Corporation. Pursuant to decision of this Court, Rajiv Gulati was allotted another industrial plot at Rai Industrial Area in District Sonapat vide allotment letter dated 29.03.2010. Rajiv Gulati expired on 30.01.2015 due to ill health. After his death, petitioner and one Chanchal Gulati are claiming to be his widows and staking claims over his property. It has further emerged

from the record that on moving a complaint by Chanchal Gulati, FIR bearing No.0597 dated 21.10.20221 under Sections 420, 465, 467, 468, 471 IPC, Police Station, Rai, District Sonapat, has already been registered against the present petition and investigation is going on.

From the reply filed by the State, it has further been brought to the notice of the Court that with regard to the threat perception of forcibly grabbing the property, despite issuance of various notices, petitioner is not coming forward to substantiate the allegations and on various occasions, one Amandeep Singh was found present at her address and resultantly, the investigation/inquiry qua the complaint (Annexure P-9) moved by the petitioner could not move forward.

In the light of admitted facts detailed above, it would become evidently crystal clear that the matter in dispute involves various disputed questions of facts which cannot be adjudicated in a writ petition. Predominantly, the dispute between the present petitioner and Chanchal Gulati is with regard to inheritance/succession of the property left behind by Rajiv Gulati who admittedly expired on 30.01.2015. The petitioner has already taken recourse to the filing of civil suit titled “Sujan Anand Vs. General Public” for issuance of succession certificate regarding estate of the deceased in her name in which Chanchal Gulati has moved an application under Order 1 Rule 10 CPC for arraying her as party. The rights of the parties qua title and possession are the subject matters of the pending litigation or any other civil litigation and cannot be adjudicated upon in the present petition.

With regard to threat perception, it has already come on record that petitioner is not coming forward. Even if the petitioner is not coming

forward, the State authorities are duty bound to take appropriate measures if there is an actual threat to the life and liberty of the petitioner. In view of the above, the petition is disposed of.

**(Sant Parkash)
Judge**

February 11th, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No