

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CRM-M-34191-2016

Reserved on: 10.11.2022

Date of Pronouncement: 17.11.2022

Jakir

....Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Rakesh Gupta, Advocate for  
Mr. Ashish Gupta, Advocate, for the petitioner.

Mr. Pawan Kumar Jhanda, AAG, Haryana.

**HARNARESH SINGH GILL, J.**

Challenge in the present petition is to the order dated 14.07.2016 passed by the Additional Sessions Judge, Mewat and the order dated 04.12.2014 passed by the Judicial Magistrate, Ist Class, Ferozepur Jhirka, whereby the protest petition filed by the petitioner was dismissed and the cancellation report submitted by the police, was accepted.

The petitioner claims himself to be a Bhondedar and alleges that the private respondents with a view to grabbing his land, had entered his house and caused him beatings, burnt his household articles and destroyed his house with JCB machine. The petitioner got FIR No. 490 dated 12.12.2012 under Sections 147, 149, 323, 427, 452 506 IPC registered at Police Station, Puhana, District Mewat. The petitioner avers that as the police did not investigate the matter fairly and had rather filed a cancellation report, he had to file a protest petition. However, the

learned Magistrate vide order dated 04.12.2014, instead of entertaining the protest petition, accepted the cancellation report and dismissed the protest petition. Aggrieved there-against the petitioner filed a revision before the Sessions Court, but the learned Additional Sessions Judge, Mewat, vide order dated 14.07.2016 dismissed the revision petition.

Learned counsel for the petitioner would vehemently argue that once the civil suit filed by the petitioner was decided in his favour, the private respondents had no right, title or interest over the land in question and by entering the land of the petitioner and causing him beatings, their motive of usurpation of the land, was apparent. It is further argued that the finding of the Courts below that the petitioner did not place on record copy of the civil suit regarding his claim over the land as Bhondedar, is misplaced as the petitioner had proved on record the copy of Jamabandi in respect of the land in question. Still further, both the Courts below fell in error of law in observing that the petitioner failed to prove on record the medical record, whereas the fact of the matter is that the private respondents had slapped the petitioner and there cannot be any medical record of the same. It is further contended that the testimony of the witnesses, would clearly establish the manner of occurrence, but despite that both the Courts below proceeded on to dismiss the protest petition.

On the other hand, learned State counsel submits that the matter was thoroughly investigated by the Police and the allegations contained in the FIR were found to be false and

rather it was found that the petitioner had encroached on the land of graveyard upon which Pehlu Sarpanch, Gram Panchayat Khwajli Kalan, had raised the boundary wall. It is further submitted that the investigation had further revealed that the sole objective of the petitioner was to encroach upon the Panchayat land and he had got the FIR registered in order to put pressure upon the private respondents to accede to the petitioner's claim.

I have heard learned counsel for the parties but I do not find any merit in the same.

Conceded position on record regarding there being no injury on the person of the complainant and no supporting medical evidence either, goes to show that no offence was made out. Still further, there is no counter on behalf of the petitioner regarding the investigation done by the police that he had encroached upon the graveyard, which is a Panchayat land.

The petitioner has, on the file of the present case, placed on record as Annexure P.6, an ex-parte Civil Court decree dated 11.08.2008. The said decree is not regarding the ownership of the petitioner, but rather a decree for permanent injunction. The Civil Court had observed that the plaintiff therein (petitioner herein) ought not to be dispossessed from the suit property (which was found to be owned by the Punjab Wakf Board) and in case the defendant therein (Gram Panchayat) had a better right to seek possession, they might proceed in accordance with law.

On a cumulative reading of the orders passed by the Courts below couple with the finding of the Civil Court, the petitioner's claim that he is owner of the property in question, falls flat.

I do not find that there is any illegality in the orders passed by the Courts below, which may warrant interference by this Court in the present petition.

Dismissed.

17.11.2022  
ds

**(HARNARESH SINGH GILL)**  
**JUDGE**

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