

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

COC-332-2016

Date of Decision : July 25, 2023

Raja Narinderjit Singh

.....Petitioner

Vs.

M.K. Jain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. R.K. Handa, Advocate
for the petitioner.

Mr. Sachin Jain, Advocate
for the respondents.

ARVIND SINGH SANGWAN, J.

The petitioner alleges violation of the order dated 22.1.2013 passed by the Additional Civil Judge (Sr. Division), Dera Bassi. The order reads as under : -

“DH through his counsel has suffered a statement which has been recorded separately and as per that statement, the application so moved on behalf of JD are hereby disposed off with a direction to the JD that he is at liberty to withdraw the amount; as per rules which has been infact deposited by DH and in compliance of the orders of Hon’ble Supreme Court of India. In the light of the statement so suffered by DH through his counsel, it is also hereby ordered that JD is directed to deliver the possession to the DH and he shall be at liberty to cut the trees standing on the land in question including removal of tubewell with

motor within a period of one month from the date of possession. DH shall not create any kind of hindrance in cutting the trees and is removing of tubewell with motor and in case, do not comply with the orders within stipulated period as ordered above, then, it shall be deemed that they have no interest in cutting the trees except to delay the final process of this execution application."

Counsel for the petitioner submits that the petitioner, who is Judgement Debtor is the owner of the trees. However, the respondents have cut the eucalyptus and other fruit trees and has, thus, violated the order passed by the Court.

On merits, counsel for the petitioner submits that the suit for specific performance of an agreement to sell dated 22.10.1996 regarding the land in dispute was dismissed. However, the appeal was allowed by the lower Appellate Court, which was upheld upto the Hon'ble Supreme Court. The Hon'ble Supreme Court, while deciding the Civil Appeal No.4307 of 2012 (arising out of SLP (C) No.15051 of 2011) on 8.5.2012 directed that within three months from the date of the order the respondents will pay Rs.05 Crores to the petitioner and, thereafter, the sale deed will be executed.

It is submitted that when the execution application was filed, the aforesaid order was passed on the basis of the statement of the parties, which is violated.

As per the affidavit filed by the respondents that after verifying the facts regarding the litigation and the order, the details of the payment made in the execution, the execution of the sale deed, issuance of warrants of

possession, etc. are given. It is stated that on 22.1.2023, on the application of the petitioner, one month time was given to cut the trees and remove the structure of the tubewell and thereafter, the petitioner withdrew Rs.3,19,92,500/- in terms of the decree. The details of the further application filed in the execution and the orders are also mentioned. It is also stated that the orders passed by the Executing Court was also challenged before the appellate Court.

Regarding the trees, it is stated that as the petitioner himself was delaying in cutting of the trees on one pretext or the other, the respondents approached the Forest Department, Punjab for removal of the trees and in CR-4082-2014, there was no stay restraining the respondents to cut the trees after the time frame fixed in order dated 22.1.2023.

It is submitted by counsel for the petitioner that after the trees were cut, the petitioner filed miscellaneous application in aforesaid CR-4082-2014, however, no stay was granted. It is also stated that the petitioner has also filed suit seeking declaration that he is the owner of the trees standing on the land in dispute and to restrain respondents from cutting the same. However, no stay was granted. It is submitted that the respondents got the valuation of trees done from the various departments which was assessed as Rs.9,29,20,000/- and has taken legal recourse to dispose of the trees by moving application in the aforesaid CR-4082-2014.

After hearing learned counsel for the parties and going through the record, it appears that the petitioner by way of filing repeated petitions/suits/objections in the execution, is trying to create hurdles with

regard to the order passed by the Hon'ble Supreme Court in Civil Appeal No.4307 of 2012 (arising out of SLP (C) No.15051 of 2011) granted additional Rs.05 Crores to the petitioner in lieu of agreement to sell which has already been received by the petitioner.

Mere fact that some statement was made regarding the standing trees on the land, the ownership of which goes with the land and the same were not cut within one month from the date of the order which is 22.1.2013 (qua which present COCP is filed), the cutting of the trees by respondents-decree holder cannot be held to be wilful disobedience of the order passed by this Court.

Accordingly, this petition is dismissed.

Rule stands discharged.

(ARVIND SINGH SANGWAN)
JUDGE

July 25, 2023

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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO