

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-31337-2016

Date of Decision:-12.12.2023

Surinder Kumar.

.....Petitioner.

Versus

State of Haryana & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Arvinder Arora, Advocate for the Petitioner.

Mr. Dhruv Sihag, AAG Haryana.

Mr. Vineet Chaudhary, Advocate for respondent no.2.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the petition under Section 482 Cr.PC is for quashing of order dated 7.4.2015 (P-1) passed by Additoinal Sessions Judge, Ambala and order dated 30.10.2012 (Annexure P-2) passed by SDM, Ambala vide which the possessions of respondent no.2 has been wrongly established without any basis on the disputed land.

2. The brief facts of the case are that one Kalendra under Section 145 Cr.PC had been initiated wherein the SDM, Ambala vide his order dated 30.10.2012 (Annexure P-2) came to the categoric conclusion that Surinder Kumar (Petitioner) had failed to establish his possession in the civil suit as well as in the revenue proceedings and, therefore, the possession of Bimla Devi (respondent no.2) had been established beyond any doubt.

The said order dated 30.10.2012 (Annexure P-2) was

challenged by Surinder Kumar before the Court of Additional District Judge, Ambala and the case came to be dismissed in default vide order dated 7.4.2015 (Annexure P-1).

4. Both the aforementioned orders are under challenge in the present petition.

5. The Counsel for the petitioner contends that the matter be remanded back for adjudication on merits as the Appellate Court had dismissed the case in default. In fact, it was the petitioner who was in possession of the land and not the respondent no.2 as had been found by the SDM, Ambala in its order dated 30.10.2012.

6. The Counsel for the respondent no.2 on the other hand contends that the impugned order had been passed by the SDM wherein reliance had been placed on a civil suit filed by the petitioner-Surinder Kumar seeking injunction against the respondents where the civil court had held that the petitioner had failed to establish his possession. Even in the revenue proceedings it had been clearly established that it was the respondent no.2 who was in possession and Surinder Kumar (petitioner) had failed to prove his possession. At the appellate stage despite availing numerous opportunities, the petitioner had not argued his case. Be that as it may, as the respondent no.2 was now in continuous possession atleast since the year 2012, the question of re-agitating the matter by remanding it back to the ADJ, Ambala does not arise. The petitioner was otherwise at liberty to avail his civil remedies in accordance with law.

7. The Counsel for the State has supported the case of the respondent no.2 by stating that the petitioner was at liberty to avail civil remedies in accordance with law.

8. I have heard counsel for the parties.

9. A perusal of the impugned order dated 30.10.2012 (Annexure P-2) passed by SDM, Ambala would clearly show that in civil proceedings as well as in revenue proceedings the possession of the respondent no.2 has been established beyond doubt. For the reasons best known to him, the petitioner has refused to argue the case before the court of ADJ, Ambala because of which on 7.4.2015 the case was dismissed in default. At this stage, the question of remanding the case back for hearing the appeal on merits does not arise. The respondent no.2 continuously remained in possession atleast since the year 2012 as is apparent from the order dated 30.10.2012. Further the petitioner/aggrieved person is at liberty to avail his civil remedies in accordance with law.
10. In view of the above, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 12, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>