

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-11575-2020 (O&M).
Date of Decision: 31.08.2023.

SURJIT SINGH

.. Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vikas Bali, Advocate, for the petitioner.

Ms. Niharika Sharma, AAG, Punjab, for respondents No.1 to 5.

Mr. B.S. Randhawa, Advocate, for respondent No.6.

VINOD S. BHARDWAJ, J. (ORAL)

The instant writ petition has been filed by the petitioner for seeking issuance of directions to the respondents No.2 to 5 to take legal action against respondent No.6 and his associates and to register an FIR against the private respondents and their associates who are alleged to have threatened, wrongfully detained and criminally intimidated the petitioner.

Learned counsel appearing for the petitioner contends that the petitioner along with his wife Tajinder Kaur and daughter Amrit Pal Kaur had entered into an agreement to sell dated 22.01.2014 with respondent No.6 who agreed to purchase the plot measuring 7.5 marlas from the land holding described in paragraph No.2 of the writ petition and situated in village Kot Kalan, Tehsil and District Jalandhar, for a total sale

consideration of Rs.77,000/- per marla. The date fixed for registration of sale deed was 31.07.2014. As per the terms and conditions of the agreement to sell dated 22.01.2014, respondent No.6 was to pay the balance sale consideration and the sale deed was to be registered thereafter in his favour. However, the balance sale consideration was not paid and respondent No.6 also did not appear before the Sub Registrar, Jalandhar for getting the sale deed registered in favour of the petitioner even though the petitioner remained present in the office of Sub Registrar and also got his presence marked on 01.08.2014.

With a view to pressurize the petitioner, after a gap of around 04 years, respondent No.6 started pressurizing the petitioner to extend the date of the agreement to sell for execution of the sale deed and illegally trespassed into the property of the petitioner in the month of July 2018 along with anti-social elements. Threats were also extended to the petitioner.

A civil suit thereafter has been filed by the petitioner for injunction through his wife and daughter against the respondent No.6 to restrain him from interfering in the peaceful possession of the petitioner, respondent No.6 has been duly served and has entered appearance. He further contends that the application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 was decided by the Civil Court vide order dated 19.07.2019 whereby the status quo was directed to be maintained with respect to the possession of the property in dispute. The respondent No.6 never opted to file any suit under the Specific Relief Act for seeking specific performance of the agreement to sell and that as the statutory period

is already over, respondent No.6 has no subsisting right to seek execution of the sale deed.

Written statement by way of affidavit of Major Singh, Assistant Commissioner of Police-V, Cantonment, Jalandhar, on behalf of respondents No.1 to 5, had been filed wherein it is averred that a complaint dated 17.06.2020 was received by the office of Commissioner of Police, Jalandhar, from respondent No.6 against the petitioner and his wife alleging that a fraud having been committed by them. It was alleged that the petitioner along with his wife and daughter had entered into an agreement to sell the land measuring 45 marlas and possession of the land had also been given to him wherein gates had been installed by them, however, they did not execute the sale deed. The petitioner was served with notice to participate in the inquiry so that the statement of the petitioner could be recorded. The petitioner appeared before the authorities on 04.08.2020 and it was informed that the discussion was being held amongst the parties for resolution of the said dispute. The said inquiry was pending when the present writ petition had been filed.

Learned counsel appearing for respondent No.6 contends that there is no necessity to file any separate reply on behalf of the said respondent. He submits that respondent No.6 has never extended any threat to the petitioner or to any of his family members i.e. wife or daughter of the petitioner. He, however, could not deny the fact that a civil suit has been filed by the petitioner wherein an order of status quo has been passed.

It is evident from the above reply that the same relates to failure to execute the sale deed despite agreement. Surprisingly, the Assistant Commissioner of Police, has mentioned in his reply about the

complaint received from respondent No.6 pertaining to agreement for 45 marlas of land. However, no description of any agreement to sell; the date of agreement; the copy of the agreement to sell; the witnesses, the earnest money paid etc. has been mentioned. He also chose not to attach any such document with the reply which leaves this Court to suspect the stand taken in the reply. However, I refrain from commenting on merits of the stand. Surprisingly, the respondent No.6, has chosen not to file any reply and to adopt the same stand on oath. It seems highly improbable that respondent No.6, who is stated to have submitted the complaint, would elect not to file any reply and contest the matter tooth and nail, if the version would be as stated. It is thus expedient that Commissioner of Police, Jalandhar, conducts an enquiry into the conduct of the Assistant Commissioner of Police and possible association with respondent No.6.

Taking into consideration the remaining circumstances enumerated above and noticing that the dispute amongst the parties was apparently civil in nature and that the Civil Court has already granted status quo regarding the possession of the property, no further directions are required to be issued by this Court. The petitioner may, if so advised, initiate proceedings against respondent No.6 for the criminal acts, if any, by filing a complaint before the Illaqa Magistrate or by any other means for pursuing his remedies and seeking redressal of his grievances.

Petition is disposed of accordingly.

August 31, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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