

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

(213)

Neutral Citation No.2023:PHHC:144236-DB

CROCP-14-2014

Decided on : 14.11.2023

Gurcharan Singh

.....Petitioner

Versus

Baldev Singh

.....Respondent

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE SUDEEPTI SHARMA**

Present:- Mr. Vikas Singh, Advocate for the petitioner.

Mr. Manoj Kumar, Advocate for the respondent.

G.S. Sandhawalia, J.(Oral)

In the present petition filed under Section 15 (b) of the Contempt of Courts Act, 1971 (for short '1971 Act'), the petitioner prays for the relief of initiating criminal contempt proceedings against the respondent for having interfered with the judicial proceedings before this Court. The ground as such is that the Court has been scandalized by forging the signatures of the petitioner in the Vakalatnama as well as in the writ petition bearing CWP No.3039 of 2006.

2. The parties are brother and there are large number of proceedings both civil and criminal pending *inter se*. It is not disputed that even the third brother Sukhdev Singh had executed a General Power of Attorney in favour of the respondent-Baldev Singh on 18.10.2004 qua his specific portion of land and criminal proceedings have also been initiated by lodging an FIR No.267 dated 10.09.2005 and the report under 173 Cr.P.C. has also been appended as Annexure P-1. Today we are

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informed that the respondent has also earned acquittal in the said proceedings, though the order is not readily available.

3. The respondent is also stated to have filed a civil suit for declaration regarding land measuring 84 kanals 18 marlas against the petitioner and other family members including his other two brothers. He has also filed another civil suit for declaration against two family members including his brother Sukhdev Singh and his wife and the petitioner has also been arrayed as defendant in the said suit which is regarding land measuring 22 kanals 13 marlas in village Sunet. The petitioner on the other hand has filed a suit for declaration that the power of attorney dated 18.10.2004 has been tampered with by the respondent-Baldev Singh and, therefore, sought necessary declaration regarding setting aside of various sale deeds mentioned in the head-note of the said suit. It is on that basis the present petition has been preferred on the ground that the acquisition proceedings initiated by Improvement Trust Ludhiana way-back in the year 1979 was subject matter of challenge in CWP No.5772 of 1981 and the matter had been carried to the Supreme Court and on remand the petition had been dismissed in the year 1987.

4. The allegations are that the respondent had forged the signatures of the petitioner in CWP No.7005 of 2005, wherein he was shown at Sr. No.2, whereby directions had been sought to consider the representation for quashing the acquisition qua 475 Acre Development-cum-Housing Accommodation Scheme. The writ petition had been disposed of with the directions to decide the representation dated 16.01.2004, vide order dated 10.05.2005 (Annexure P-6). A speaking order had been passed on 23.06.2005 which was subject matter of challenge in CWP No.3039 of 2006 allegedly filed by the petitioner who

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had been arrayed as petitioner No.2. It is the case of the petitioner that on coming to know the fact that he was also petitioner No.2, he filed an application bearing CM-1981-2008 for deletion of his name and for taking an appropriate action against petitioner No.1. It is not disputed that the application had been allowed to the limited extent that the name of the petitioner was deleted and no action was ordered against the respondent at that point of time, though prayed for.

5. We have also gone through the said application, wherein specific averments are that the respondent had misled this Court and had also committed contempt of Court, but the Hon'ble Coordinate Bench at that point of time chose not to take any action against the respondent, though prayed for. We are of the considered opinion that once the relief claimed has not been granted, it is deemed to have been declined. The order was not challenged before the Apex Court.

6. Apparently, the petitioner got a reference made from the Advocate General who had granted initiation of criminal contempt proceedings against the respondent-Baldev Singh, which is the basis of filing the present petition, in view of the conditions prescribed under Section 15 of the 1971 Act. We have also perused the sanction granted whereby the learned Advocate General, Punjab on comparison of signatures in CWP No.3039 of 2006 he was of the considered opinion that the same were not of one and same person. No material has been placed on record showing any report of the handwriting expert as to who had signed on CWP No.3039 of 2006 and whether the respondent as such had signed or some other person had signed. It is not disputed that the litigation as noticed was for the benefit of both the brothers and mainly challenging the acquisition of the land.

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7. The reply has also been filed on behalf of the respondent, wherein it has been pleaded that the answering respondent was never against the petitioner rather he was acting in his interest for the exemption of their joint land owned by the family members. There was no occasion to forge the signatures of the petitioner as he was alone competent to file the writ petition and there was no requirement of the petitioner to file the writ petition and he has not taken any benefit by filing the writ petition. It has further been pleaded that the petitioner had signed on the Vakalatnama and sent the same through a common man and even they were not on visiting terms but they are not enemies and rather real brothers. It has also been mentioned that they are also President and Vice-President of Sardar G.S. Memorial Public School at Guru Amar Dass Nagar, Ludhiana which is controlled by a Educational Society. Regarding litigation it is submitted that since the petitioner was not given any property in the Will he had got some revenue entries done regarding the inheritance of Gurdial Singh by playing fraud and by filing civil suit challenging the same which is pending before the Civil Court at Ludhiana.

8. Section 15 of the 1971 Act provides that this Court may take action on its own motion or on a motion made by the Advocate General, under Section 15 (1)(a), whereas under sub-Clause (1) (b) any other person with the consent in writing to the Advocate General can also take the same benefit. Under sub-Clause (3) every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

9. It is not disputed that there is no report as such of handwriting expert on the record for us to come to the conclusion that it was the respondent who had signed on the power of attorney and no other person.

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The writ petition was specifically withdrawn qua the petitioner by deleting his name as noticed above on the application filed by the petitioner himself. His name stood deleted but the Coordinate Bench opted not to take any action against the respondent, though action has been prayed in the application which has also been appended as Annexure P-7.

10. In such circumstances, in the absence of any tangible or unimpeachable evidence, we are of the considered opinion that there is nothing on record for us to take cognizance of the alleged contempt. Therefore, we drop the proceedings and discharge the rule against the respondent in the present facts and circumstances.

(G.S. SANDHAWALIA)
JUDGE

14.11.2023
Naveen

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No