

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

115

CWP-15640-2023

Date of decision: 24.07.2023

HARSH CHAUDHARY

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present:- Dr. Pankaj Nanhera, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed for seeking issuance of directions to the respondent No.2 for constituting Special Investigation Team (SIT) to conduct fair investigation after registration of FIR on the basis of complaint dated 20.03.2023 (Annexure P-6) against respondents No.5 to 7 and to decide the representation dated 01.07.2023.

2. The case of the petitioner who is the estrange wife of respondent No.5 herein a “Trustee” by the name of “*Dronacharya Educational Trust*” was registered on 08.12.2008 at Faridabad between Ramesh Gulati as “Settler” and Naveen Chaudhary (husband) and the petitioner herein is the Life Member trustee. Marriage between the petitioner and respondent No.5 was solemnized on 17.09.1994. However, the relationship between the petitioner with respondent No.5 did not turn cordial since inception and behavior of respondent No.5 is alleged to be arrogant. A complaint was submitted to the Commissioner

of Police, Faridabad on 15.06.2020 to take legal action against respondent No.5 for allegedly harassing the petitioner for transfer of property, in his name. Certain blank cheques were also alleged to have been signed by the petitioner alongwith blank papers under threat to kill her which was given by respondent No.5.

3. It is alleged that with a view to get rid of the police proceedings that were initiated on the complaint dated 15.06.2020, the respondent No.5 submitted a written apology on 18.09.2020 bearing his signatures and in the presence of other relatives and the police officials with an assurance that he shall not repeat such acts in future. However, on 18.12.2020, respondent No.5 in connivance with his brother respondent No.6 (Gulshan Chaudhary) and respondent No.7 (Kailash Kumar) allegedly prepared a false, forged and fabricated resignation of the petitioner from the Trust and properties and then prepared a supplementary Trust Deed on 18.12.2020. It is alleged that the said supplementary Trust Deed is beyond the authority of respondent No.5 and that the petitioner never submitted her resignation from the Life Membership of the Trust. A representation in this regard was submitted by the petitioner to the Deputy Commissioner to conduct an enquiry, however, no action has been taken thereupon. Additionally, a complaint is also stated to have been submitted by her to the respondent-Police agencies alleging that she had never tender her resignation and that the resignation letter bears forged signature of the petitioner. A prayer is thus also made that an FIR into the allegations be registered and a Special Investigation Team be constituted so as to investigate into the said matter after registration of the FIR.

4. Counsel for the petitioner has also expressed apprehensions that the private respondents, under the garb of the newly registered supplementary trust deed have been passing resolutions so as to dispose of the property of the Trust for their own benefit. Consequently, the matter is required to be looked into an early stage.

5. I have heard learned counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present petition.

6. The questions that arise before this Court for determination in the present case *inter alia* are as under :-

- i) Whether the signatures of the petitioner on the resignation letter are forged and fabricated or not. There is no material on record on the basis whereof the said statement of the petitioner can be accepted as gospel truth. It is at best a self serving statement at this juncture.
- ii) The question of execution of sale deed and the authority of Trust in alienating the said property by virtue of valid resignation are neither a subject matter of challenge nor any such material that has been placed on record on the basis whereof it may be presumed that any sale deed has been executed by the Trustees of the property and/or under the Trust Deed, they had no authority to alienate the property of the Trust.
- iii) That disputed questions would arise for determination in the present case and there is no reason as to why the petitioner would not approach the Civil Court for

adjudication of the said issues by of an appropriate petition.

- (iv) The petitioner has failed to point out any provisions under the Societies and Registration Act, 1860 by virtue whereof the Deputy Commissioner, may have any power and/or the authority to control the affairs of a Trust and that he may make any such declaration qua the resignation submitted by any of the Trustees.
- (v) It is also evident that the relationship between the Husband and wife are estranged and apparently the process of approaching this Court is to bye pass due process of law by approaching the Civil Court.

7. In view of the aforesaid, I do not find any grounds to issue any directions as are being prayed for more of the Deputy Commissioner, has no competence and there is no reason as to why the petitioner ought not to file appropriate proceedings before competent Court for seeking adjudication of his grievances, if any.

8. The present petition is accordingly dismissed for the aforesaid reasons. The same would, however, not operate as a Bar against the petitioner to take recourse to the alternative remedies available to her in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

JULY 24, 2023
Vishal sharma

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