

2024:PHHC:153271

104 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCOC-2791-2016 (O&M)
Decided on:-21.11.2024

Gurcharan Singh

....Petitioner..

vs.

Sh. D.P.S. Kharbanda, Chief Sales Commissioner-cum-Deputy
Commissioner, Ferozepur and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. P.S. Khurana, Advocate for the petitioner.

Mr. Sandeep Khunger, Advocate and
Mr. Saksham Khunger, Advocate,
for the respondents.

HARKESH MANUJA J. (Oral)

1. By way of present petition, prayer has been made for initiation of contempt proceedings against the respondents on account of alleged willful non-compliance of order dated 23.09.2011 passed by this Court in CWP-18018-2011. The operative part thereof is reproduced hereunder:-

“Present petition is disposed of with direction to the Sales Commissioner-cum-Collector shall record specific finding on the legal effect of Civil Court’s judgment and decree. He shall also record definite finding on the question as to whether respondents’ claim in view of Civil Court’s judgment is time barred and can be permitted to be raised once again after the judgment of Civil Court. Entire exercise shall be completed by the Sales Commissioner within 60 days from the date certified copy of this order is placed before him.”

2. Learned counsel for the petitioner submits that while passing

the order dated 31.05.2016, the Sales Commissioner, Zira did not record any finding on the legal effect of Civil Court's judgment and decree and thus, violated the order passed by this Court.

3. I have gone through the contents of the order dated 31.05.2016 passed by the Sales Commissioner, Zira in terms of order passed by this Court on 23.09.2011.

4. A perusal of the order dated 31.05.2016 passed by the Sales Commissioner, Zira, reflects that the decree passed by the Civil Court was though considered yet, not relied upon while recording that the same was obtained by hiding certain facts.

In such circumstances, once the effect of decree was discussed and dealt with by the Sales Commissioner, Zira while passing the order dated 31.05.2016, no finding can be recorded towards willful non-compliance of the order dated 23.09.2011 passed by this Court, as in the contempt jurisdiction, the scope of discretion or reasoning recorded by the Sales Commissioner, Zira cannot be gone into.

Moreover, it has been informed that the petitioner assailed the order dated 31.05.2016 passed by the Sales Commissioner, Zira by way of an appeal before the Chief Sales Commissioner, Ferozepur, which also came to be dismissed vide decision dated 30.03.2017.

5. In view of the aforesaid discussion, no case is made out for proceeding against the respondents in the contempt jurisdiction. Thus, the main petition is dismissed. Rules stands discharged.

21.11.2024

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No