

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

121

CWP-4647-2024

Date of decision: 28.02.2024

MAHAVIR AND ANOTHERPetitioners

VERSUS

STATE OF HARYANA AND OTHERSRespondents

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

Present:- Mr. Sumit Sangwan, Advocate
for the petitioners.

VINOD S. BHARDWAJ, J. (Oral)

1. The present writ petition has been filed for seeking directions to the respondents to permit the petitioners to irrigate their fields from the tube-well and to extend administrative and police help and to take legal action against the guilty persons.
2. Learned counsel appearing on behalf of the petitioners contends that the private respondents, in connivance with other co-villagers of Village Mandhan are not permitting the petitioners to irrigate their fields from the tubewell installed by them in their land by showing their strong-headedness and are continuously causing damages to their crops due to which they are suffering losses. He contends that the private respondents also cut the PVC pipeline whenever the petitioners try to irrigate their fields by starting the tubewell/borewell. Repeated requests have been made by the petitioner by way of representations to the Station House Officer but no action has been taken thereupon. The petitioner thereafter preferred a Civil Suit for

declaration of permanent injunction against certain respondents (other than the respondents impleaded herein) on 24.05.2023. An interim injunction was granted by the Civil Court on 15.09.2023 restraining the defendants therein from destroying the tube-well and PVC pipes installed by the petitioner. An appeal against the said order was filed by the defendants therein which was dismissed by the Court of Additional District Judge vide order dated 11.10.2023. A Civil Revision No. 6751 of 2023 was filed before this Court in which no interim order has been granted.

3. Counsel contends that despite the petitioner having succeeded in seeking an interim protection before the Civil Court viz-a-viz of his right, now other villagers have taken resort to impeding the right of the petitioner to irrigate through tube-well. He made a representation to the respondent-Police against the illegal acts of the respondents, however, no action was taken against them. He is thus constrained to approach this Court since the villagers have substituted themselves by others who were not impleaded as defendants in the Civil Suit.

4. I have heard learned counsel appearing on behalf of the petitioners and have gone through the documents appended alongwith the present writ petition. The following facts emerge from a perusal of the above:

- i) That a declaratory suit for determination of right of the petitioner is pending before the Civil Court wherein an interim injunction has been granted in favour of the petitioner against certain defendants.

- ii) That even though a portrayal has been made by the petitioner that the entire village is seemingly against him, however, he has only named certain individuals, that is, from respondents No.6 to 9 i.e. 04 persons who are allegedly interfering and causing disruption of the use of his right.
- iii) That the dispute apparently seems to be a private dispute amongst the petitioners and the private respondents, which is now being sought to be raised as violation of a statutory right.
- iv) There is no impediment on the petitioners to implead the said respondents and also seek protection against them in the pending Civil Suit.
- v) That the police authority is not a mechanism which is devised for determination of civil rights *inter se* between the parties and the petitioner having exercised an option to pursue a remedy, the rights are required to be pursued under the said remedy alone and that the present writ petition cannot travel beyond the right already initiated by the petitioner by lodging a simultaneous petition before this Court.
- vi) That an appropriate mechanism is already available under the civil law for protection of such right.

5. In addition, in the event there is an unlawful restraint by the said respondents, the petitioner has remedy to institute criminal proceedings against them. The process of submission of representation

and/or directing the concerned Station House Officer to decide the representation is a procedure which is alien to criminal law. In case an aggrieved is not satisfied with the steps initiated by the Station House Officer in a complaint, the petitioner has the option of pursuing remedy before the Illaqa Magistrate by means of instituting an appropriate complaint.

6. That there is nothing on record on the basis where of this Court may construe that any cognizable offence has been committed by the said respondents for which an FIR ought to have been registered. Under the aforesaid circumstances, I am of the opinion that the institution of the present writ petition is only an attempt to further pressurize the administrative agencies to act as an executing authority without the petitioner taking recourse to the law enforcement in the manner prescribed under the civil law.

The present writ petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 28, 2024

Vishal sharma

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