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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-8075-CWP-2024 in/and
CWP-7389-2024

Date of Decision: May 17, 2024

Isham Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Parminder Singh, Advocate
for the petitioner

Ms.Upasana Dhawan, AAG, Haryana.

Mr.Ram Pal Verma, Advocate
for the applicant/respondent No.4 alongwith
respondent No.4

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RAJESH BHARDWAJ, J.(ORAL)

1. CM-8075-CWP-2024 has been filed for vacation of stay, dated 01.04.2024, in which notice was issued for today. Today all counsel are representing their respective clients. So keeping in view the controversy involved in the present case, the same is preponed for today itself. As the main case is being taken up today, no order is required to be passed in the present application and as such the same is disposed of.

2. The petitioner has approached this Court impugning the order dated 07.03.2024, Annexure P-6, wherein it has been contended that the application for preponing moved by respondent No.4 without any notice and supplying the copy had been considered on the same date and stay order dated 08.08.2023, Annexure P-3, had been vacated, while the partition



Order 39 Rule 1 and 2 moved by respondent No.4 on the basis of partition decree in suit for permanent injunction with cogent finding that respondent No.4 is not in possession of the land fall/come to her share/chunk, thus the impugned order of vacation of stay is absolutely illegal, arbitrary and ab-initio in the eyes of law.

3. It has been contended by learned counsel for the petitioner that the petitioner had filed a revision petition before respondent No.2, i.e. Commissioner, Karnal Division, Karnal, wherein stay was granted on 08.08.2023 at the time of its admission. He has submitted that thereafter stay granted by the learned Commissioner was vacated without issuing notice on the application filed by the opposite party. Hence, this Court vide order dated 01.04.2024, stayed operation of the impugned order, dated 07.03.2024. Now applicant/respondent No.4 has approached this Court by way of filing abovesaid application, i.e. CM-8075-CWP-2024, for vacation of the stay granted by this Court vide order dated 01.04.2024.

4. Applicant/respondent No.4 is also present in person before this Court. She has submitted that she is not being allowed to enter her partitioned land by the petitioner. It has also been submitted before this Court that they had sown their wheat crop, which is also harvested forcibly by the petitioner.

5. Vide order dated 15.05.2024, this Court had summoned Tehsildar, who is present in Court today.

6. On asking of the Court, Rohtash, Tehsildar, Gharaunda, Karnal, has apprised the Court regarding the detailed facts of this case. It has been submitted by the Officer that he had visited the place and interacted with the



co-sharers also. He has fairly submitted that after partition, applicant/respondent No.4 had been allotted five numbers out of which she is in possession of only one number, i.e. 3//18/1 (7-19), however, rest of the four numbers are in possession of the petitioner and it is because of this reason that petitioner is intentionally delaying the partition proceedings.

7. The petitioner/non-applicant, as observed earlier, has filed the revision petition before respondent No.2, which is said to be pending adjudication for 04.09.2024. It has been submitted before this Court that because of pendency of the revision petition before respondent No.2, the dispute among the parties is multiplying and till the revision is decided, further proceedings cannot take place.

8. Heard.

9. In the attending facts and circumstances of the present case, it is ordered that revision pending before respondent No.2, i.e. Commissioner, Karnal Division, Karnal, for 04.09.2024 is preponed to 22.05.2024.

10. Learned Commissioner is directed to take up revision petition on 22.05.2024. Both the parties are directed to appear before the Commissioner on the said date. It is being clarified that revision pending before the Commissioner would be decided positively by 31.05.2024 after hearing both the parties. Neither of the parties would be granted any adjournment.

11. The parties would be at liberty to pursue their remedy in accordance with law after the decision of the revision petition rendered by learned Commissioner. The Tehsildar is also directed to take further necessary action, as per law.



- 12. Till the time the revision petition is decided, the stay will continue to operate.
- 13. It has been submitted before this Court that there remains some tension among the parties which has totally spoiled the atmosphere of peace living.
- 14. Tehsildar, who is present in Court, is at liberty to take necessary action against the wrong doer of either of the parties.
- 15. A copy of this order be given to learned counsel for the parties under the signatures of the Bench Secretary.
- 16. Registry is also directed to send a copy of this order to respondent No.2- Commissioner, Karnal, forthwith for information and necessary action.
- 17. Petition is disposed of in the above terms.

May 17, 2024
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |