

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CR-2644-2024 (O&M)
Date of Decision: 02.05.2024

BALJINDER SINGH AND OTHERS

... Petitioners

VERSUS

SHIV MANDIR KALYAN DHARAM ARTH
SOCIETY AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Ms. Balpreet K. Sidhu, Advocate
for the petitioners.

Mr. S. S. Grewal, Advocate
for respondent No.1.

RITU TAGORE, J. (Oral)

1. The present civil revision is for setting aside order dated 24.04.2024 (Annexure P-1) passed by Additional Civil Judge (Senior Division) in Exe.293-2019 titled 'Shiv Manir Kalyan Dharam Arth Vs. Gram Panchayat'.

2. Learned counsel for the petitioners submits that earlier petitioner No.1 was the Sarpanch and petitioners No.2 and 3 were the members of the Gram Panchayat. It is stated that the matter in hand is between the respondents and Gram Panchayat of village Kalyan Malka (respondent No.2) and after dissolution of Panchayats in State of Punjab 28.02.2024, the petitioners No.1 to 3 left with no authority or power to deal with the issue in hand. It is stated that they have no concern with the Gram Panchayat after the dissolution of Gram Panchayat. The issuance of arrest-warrant vide order dated 24.04.2024 (Annexure P-1)

passed by Learned Additional Civil Judge (Senior Division) in Execution Petition No.293-2019 is wholly wrong and in violation of the provisions of Section 51 and Order 21 Rule 37 CPC. No show cause notice as provided under Order 21 Rule 37 CPC was given to them before issuance of warrants. Further it is submitted that the petitioners have no personal interest in the suit property as there is no decree against them.

3. Notice of motion.

4. Mr.S. S. Grewal, Advocate appears on behalf of respondent No.1 and files Power of Attorney, which is taken on record, subject to just exceptions.

5. Learned counsel for respondent No.1 submits that show cause notice is not necessary to be issued under Order 21 Rule 37 CPC if the Court is satisfied that judgment debtor is delaying the execution of decree. Learned counsel further submits that in view of the submissions made by learned counsel for the petitioners, appropriate order may be passed in the present revision petition.

6. Perusal of the judgement dated 24.08.2013 titled 'Shiv Mandir Kalyan Dharam Arth Society (Regd.) village Luthar, Tehsil and District Ferozepur through Batimams/Mohitmim Surinder Pal Sharma s/o Late Pt. Durga Parshad Sharma Vs. Gram Panchayat village Kalyan Malka, Tehsil and District Bathinda, through Sarpanch' (Annexure P-4) shows that the aforesaid suit was decreed in favour of the plaintiff *ex parte* against the Gram Panchayat. Present petitioners are not party in the aforesaid suit. Examination of the impugned order shows that no show cause notice as provided under Order 21 Rule 37 CPC was given to them before issuance of warrants. Further, in view of the statement

made by learned counsel for the petitioners that the petitioners have no connection with the Gram Panchayat on dissolution of the Gram Panchayat on 28.02.2024, and now, they are not holding any office in the Gram Panchayat in any capacity, accordingly, order dated 24.04.2024 (Annexure P-1) regarding issuance of warrants of arrest against petitioners No.1 to 3 is set aside. Insofar as the petitioner No.4 is concerned, only show cause notice has been issued against him, therefore, calls for no interference at this stage.

7. Accordingly, this revision petition is disposed of in above terms.

02.05.2024

Rimpal

(RITU TAGORE)
JUDGE

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