

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-28863-2023

Reserved on: 01.05.2024

Pronounced on: 03.05.2024

2024:PHHC: 061351

KASHMIR SINGH AND ANOTHER

. . . . PETITIONERS

Vs.

STATE OF PUNJAB AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ashok Giri, Advocate, for the petitioners.

Mr. Ramandeep Singh, Sr. DAG, Punjab.

Mr. Vikas Arora, Advocate, for respondents No.6 and 7.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482CrPC, petitioners pray to initiate legal action against private respondents for flouting the order dated 27.05.2022 of SDM, Ajnala, District Amritsar passed under Sections 145/146 CrPC.

2.1 It is contended by ld. counsel that petitioners had litigation with their step brothers Jaswant Singh and Lakhwinder Singh, for which they had engaged respondent No.6-Milap Singh Bhatti as their Advocate, who got their signatures on certain blank papers, misused the same and got the Girdawari and electric motor connection changed in his name. On coming to know of the said fraud, petitioners got lodged FIR No.15 dated 07.02.2020, under Section 420/120-B IPC against said Milap Singh Bhatti, in which after investigation, final report under Section 173 CrPC has already been filed.

2.2 Ld. counsel contends further that private respondents had been claiming possession over the disputed land on the basis of aforesaid Girdawaries, though it is the petitioners, who had been in physical possession. As the matter

was brought to the notice of SHO concerned, he presented a calendera under Section 145 CrPC before SDM Ajnala, Amritsar, stating therein that there could be dispute regarding the physical possession over the property in dispute, or any untoward incident could occur between the petitioners and respondent No.6. Vide an order dated 27.05.2022, SDM Ajnala, Amritsar, appointed respondent No.5-Tehsildar Ajnala, as receiver under Section 146 CrPC and authorized him to attach the property in question and to keep the same in his possession, till the parties got their rights determined from the competent Court of law.

2.3 Ld. counsel contends that despite the aforesaid order dated 27.05.2022 of the SDM, private respondents No.6 and 7, who are father and son duo, agreed to sell the disputed land vide agreements dated 22.08.2022 and 03.09.2022 to respondent No.8. On coming to know of the said transfers, petitioners made a representation dated 11.04.2023 (Annexure P6) to the SDM, but no action was taken thereon. It is alleged that the private respondents harvested the standing crops. Petitioners approached various authorities including the SSP, but no action had been taken and so, they have to approach this Court for initiating action against the respondents for flouting of the order of SDM concerned.

3. In the reply filed by way of affidavit dated 21.02.2024 of Sh. Satinder Singh, IPS, SSP, Amritsar (Rural), on behalf of respondents No.1 to 3, it is submitted that after passing of the order dated 27.05.2022 by the SDM Ajnala, party No.1 - Jaswant Singh and respondent No.6 - Milap Singh Bhatti got recorded their statement before the SDM to the effect that they had entered into a compromise and based thereon, the order dated 27.05.2022 has been vacated by the SDM Ajnala vide order 11.07.2023(*Annexure R1/T*). It is further stated in the reply that dispute between the parties is relating to possession of the

land, which is purely civil in nature. As a preventive measure to avoid any towards incident, proceedings under Section 145/146 CrPC were initiated and the property was ordered to be preserved on 27.05.2022, but on the basis of compromise effected between the parties, that order has been vacated on 11.07.2023.

4. In rejoinder, filed by the petitioners, it is submitted that order dated 27.05.2022 could not have been vacated on the basis of statement of Jaswant Singh and without calling the petitioners and that petitioners have already challenged the order dated 11.07.2023 (Annexure R1) before the Court of Sessions by filing CRR-125-2023, which is fixed for 07.05.2024.

5. Having considered submissions of both the sides, this court finds the present petition to be misconceived in every respect. In the first place, the order dated 27.05.2022 of SDM Ajnala has already been vacated vide an order dated 11.07.2023 and as per the rejoinder of the petitioners, they have already challenged the said order dated 11.07.2023 before the Court of Sessions, where the revision is pending. Secondly, in case the private respondents had flouted the order dated 27.05.2022, the remedy for the petitioners was to approach the SDM concerned to initiate necessary action in accordance with law and not to approach this Court for getting that order implemented.

6. As such, finding no merit in the present petition, the same is hereby dismissed.

Pending application(s), if any, also stand disposed of.

03.05.2024
Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>No</i>