

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CWP-31125-2019

Date of decision: 02.05.2024

KEWAL SINGHPetitioner

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

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

Present: - Mr. Abhijeet Partap Singh, Advocate
for the petitioner.

Ms. Harpriya Khaneka, DAG, Punjab.

Ms. Ramandeep Kaur, Advocate for
Mr. Monty Goyal, Advocate
For respondent No.4

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking issuance of directions to respondent No.2 to further direct the respondent No.3 for registration of a case against the private respondents in terms of the enquiry report dated 17.06.2014 and 27.06.2014 carried out by the senior police officials

2. Counsel for the petitioner contends that the petitioner is an investor who deals in property. He submits that the petitioner had agreed to

purchase a land measuring 07 acres at the rate of Rs. 58 lacs per acre from respondent No.5 on 20.02.2011 in the presence and witness of respondent No.4 and an amount of Rs. 60 lacs was given as earnest money. The date of execution of the sale deed was fixed as 16.12.2011. He submits that in the meanwhile, the respondent No.4-Pawan Gupta who was well versed with the terms of the agreement and also that the rate of Rs. 58 lacs per acre, approached the petitioner to buy the said land @ Rs. 70 lacs per acre. Hence, he was required to pay a sum of Rs. 84 lacs to the petitioner as profit. The respondent No.4 is stated to have entered into an agreement to purchase the said land with the petitioner on 10.06.2011. However, respondents No.4 and 5 connived with each other to usurp the earnest money as well as the profit margin of the petitioner and that as a result of such conspiracy, the land in question was transferred by way of an execution of sale deed in favour of respondent No.6. He submits that a complaint in this regard was submitted by the petitioner to the police authority which was inquired into and that the petitioner was reported by the officials to have committed an offence of criminal conspiracy, cheating and breach of trust. He submits that notwithstanding the above said report, no action has been taken by the authorities.

3. Reply by way of an affidavit of Rajesh Kumar, PPS, Assistant Commissioner of Police Special Branch-cum-South Ludhiana had been filed on 27.07.2023. It was stated that even though a preliminary enquiry on the application submitted by the petitioner was conducted by the then ACP (Rural) (Gill), Ludhiana who found a commission of offence punishable under Section 406, 120-B of the IPC to have been made out against respondents No.4 to 6 and that the said enquiry report was forwarded to the

higher officials, however, the report was not finally approved by the Commissioner of Police, Ludhiana and vide his communication dated 28.10.2014, in which various points were raised that had not been considered in the enquiry conducted by the officials. They were directed to conduct an intensive enquiry on the said points, Accordingly, ADCP-3, conducted enquiry on the said points and reported that no offence was made out against the private respondents. It was reported by the ADCP-3 that parties were involved in the property dealing cases and actually respondent No.4 had purchased the above noted land from respondent No.5 but the sale agreement was got executed by respondent No.4 in favour of the present petitioner and that the payment of Rs. 60 lacs was also given by respondent No.4 to respondent No.5. Thereafter, respondent No.4 also purchased the same land from the petitioner vide agreement dated 12.06.2011 but there is no proof of any payment by the petitioner to respondent No.4. It has further transpired during the enquiry that the petitioner got lodged a missing report with respect to the earlier sale agreement which was executed by the respondent No.4 from respondent No.5 in favour of the petitioner and that on the basis of the said sale agreement, the petitioner filed a Civil Suit. In the meanwhile, respondent No.4 purchased 05 acres of land out of 07 acres from respondent No.5 and got the sale deed executed in favour of respondent No.6. It was only when the sale deed was presented before the revenue authorities for sanction of mutation that the petitioner raised objection. The matter was eventually compromised by the petitioner with respondent No.4 and he also furnished an affidavit on 03.12.2012 stating that he had no objection if the mutation is sanctioned in favour of respondent No.6 . The same came to be sanctioned in favour of respondent No.6 in view of the

compromise by the petitioner. It was also reported by the Enquiry Officer that the petitioner was demanding 25% profit from respondent No.4 in the said land deal and that it was on refusal of the respondent No.4 to give such margin of profit when the allegations have been leveled. It was reported that there was no liability made out in the said case.

4. Counsel appearing on behalf of respondent No.4 made a statement that there was no necessity of filing of any separate reply and that she would rely on the reply already filed by the State of Punjab.

5. There was no replication or rejoinder filed to the reply filed by the respondents No.1 to 3.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.

7. The entire case of the petitioner is based upon the report submitted by the ACP and as forwarded by the ADCP, which such report had never attained finality and the Commissioner of Police raised various objections/issues which were required to be inquired into. The ADC-3, Ludhiana looked into the said issues/objections raised by the Commissioner of Police, Ludhiana and thereafter recommended that there was no criminal or cognizable offence made out. It was also noticed by the ADCP that the matter had already been amicably compromised between the petitioner and respondent No.4 and that the dispute was only with respect to the profit sharing which was primarily a civil dispute in the matter. On a specific query raised to the petitioner, counsel for the petitioner is not in a situation to inform as to whether any suit for specific performance of the agreement

claimed to have been executed in his favour was ever filed by the petitioner or not.

8. Taking into totality of the circumstances and also noticing that primarily a dispute pertains to the Agreement to Sell/Civil transactions that took place between the parties, the findings eventually recommended by the ADCP-3, Ludhiana cannot be said to be faulted. The present case does not make out any cause for the High Court to issue the direction as prayed for.

9. The present writ petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

MAY 02, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No