



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-6044-2018 (O&M)

Date of Decision : 11.11.2025

Jai Singh and Others

... Petitioners

Versus

Ram Niwas

... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aayush Gupta, Advocate for the petitioners.

Mr. Mohit Rathee, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 30.07.2018 whereby the petitioners herein were sentenced to undergo civil imprisonment for three months.

2. The brief facts relevant to the present lis are that the plaintiff-respondent herein filed a simpliciter suit for permanent injunction for restraining the defendant-petitioners herein from interfering in his peaceful possession over the property comprised in Khasra No.449 situated at village Fatehpuri, District Jhajjar and in case the defendant-petitioners have raised any construction over the suit property during the pendency of the case, then removal of the same. The plaintiff-respondent claimed to be owner in possession of the suit land by virtue of a sale deed No.2499 dated 28.04.2009.

It was averred in the plaint that plaintiff-respondent was using the suit

property for collecting fuel wood, wastes and tethering of cattle and the defendant-petitioners were bent upon interfering in his peaceful possession. The suit was contested by the defendant-petitioners herein. Vide order dated 19.03.2010 the Trial Court directed the defendant-petitioners herein to maintain *status quo* qua possession over the suit property. An application was filed by the plaintiff-respondent for contempt averring therein as under :

“ 3. That respondents are quarrelsome and also do not believe in the definition of law whereas believe in the definition of “ MIGHT IS RIGHT” . They have violated the court order dated 19.03.2010 by lying newly bricks and sand (Clay) at night on dated 22.04.2010 near portion mark ‘ A’ and ‘ D’ over the property in question shown in the site plan by way of illegal force and manner and also without any legal rights. Respondents are wanted to shown their illegal possession in the property in question against law and justice whereas they have no right to do so or also no concern with the property in question in any manner. This type of act of the respondents are illegal, unwarranted manner. Latest photo of the property in question are also enclosed herewith this application.”

3. Reply was filed to the said application. In the application it was categorically denied that any bricks had been laid by defendant-petitioners. Vide order dated 14.09.2016, after assessing the evidence on the record, the Trial Court dismissed the application holding as under :

“ 15. After going through the rival contentions of both the parties and relevant documents on record, it becomes quite

clear that there is no dispute regarding the order passed by the court Mark N dated 19.3.2010. Hence, it has been an established fact upon the case file that vide order dated 19.3.2010 both the parties to the suit were directed to maintain status quo qua possession over the property in dispute, i.e, plot comprised in khasra no.449. As per present contempt petition the petitioner alleged that on 22.4.2010 by putting bricks and sand on the spot the respondent have violated the court order regarding the status quo qua possession. To my mind even apparently this contention of Ld. Counsel for the petitioner is not maintainable in the eye of law that by simply proving the fact that the respondents put bricks and sand on the land comprised in khasra no.449 on dated 22.4.2010, they could be able to prove the contempt or violation of the order of the court dated 19.3.2010. I have no hesitation to say that while the order of the court was to maintain status quo qua possession, putting anything or raising construction over the same by the party ipso facto makes it liable for violation of the order of the court, as to violate the order or to prove that the other party has violated the order of the court by putting in some bricks and sand on the spot, it has to be proved that at given possession over the premises. As far as the case in hand is concerned, to prove the fact that the respondents have violated the court order dated 19.3.2010, to my mind the petitioner have to

prove the fact that they had been in possession over the demised premises at the relevant point of time. As far as the possession of the petitioner upon the demised premises is concerned, to my mind the petitioner has not been able to prove the fact that on relevant point of time he has been in possession over the property in dispute. Moreover, AW2 in his cross examination categorically stated that Alok from whom they have purchased the impugned land, has been residing at Section 16 Rohini and he could not be able to tell how many brothers and sisters Alok have or where the other family members of Alok reside. He also stated that death of father of Alok took place in Punjab and further admitted the fact that Alok and his family members never resided in the village and they do not have any ration card of the village. Hence, these admission on part of AW2 Ram Niwas makes it quite clear that infact owner of the plot in dispute as alleged namely Alok and his family have never resided in the village since long ago. Hence, while the possession of the vendor for the petitioner themselves does not get proved upon the file, it is very difficult to believe that they have delivered the vacant possession over the demised premises to the petitioner upon the suit land specially in a situation wherein respondents have been claiming to be in settled possession over the same and the Assistant Collector Ist grade, also supported the same facts as far as the question of possession over the spot

bearing khasra no.449 is concerned, hence, in such circumstances and on the basis of discussion made above even if all the averments of the petition qua putting of bricks and sand on the spot as well as thereupon raising construction over the property in dispute are accepted in toto even then the petitioner has failed to prove the fact that by raising construction over the demised premises the respondents have violated any order of the court as they could not be able to prove their settled possession over the property in dispute. Though vide this order the court need not to go into the question as to which party had been in settled possession over the demised premises at the relevant point of time as the same would require leading of detailed evidence from both the sides qua possession and moreover the question of determination of possession is not the matter in issue before the court in present petition. But nevertheless to prove the violation of the order of the court regarding status quo qua possession, the petitioner has to prove his possession at least prima facie upon the case file which in present facts and circumstances on the basis of discussion made above, to my mind, the petitioner has failed to do. Hence, on the basis of discussion made above, this issue is hereby returned against the petitioner.”

4. Aggrieved by the same, an appeal was filed. The First Appellate Court vide the impugned order dated 30.07.2018 held that it was clear from

the sale deed (Mark 'K') that plot No.449 was purchased by the plaintiff-respondent and there was no dispute *qua* his ownership, hence ownership was proved. It was further held that despite *status quo* order construction of a room had been raised and further held that the defendant-petitioners herein guilty of having violated the order and sentenced them to undergo civil imprisonment for a period of three months. Aggrieved by the same, present revision petition has been filed.

5. Learned counsel for the petitioners would contend that in the application, which was filed by the plaintiff-respondent for violation of the order, the only allegation was that some bricks had been put by the defendant-petitioners. Subsequently, a Local Commissioner was appointed who went further to state in his report that a room had been constructed. Learned counsel for the petitioners has further handed over a copy of the judgment and decree dated 07.12.2018 whereby the suit for permanent injunction filed by the plaintiff-respondent had also been dismissed holding that the plaintiff-respondent had failed to prove his case by leading affirmative evidence and that the land comprised in Khasra No.449 is *shamlat deh* property.

6. *Per contra* learned counsel for the plaintiff-respondent would contend that there was a report of the Local Commissioner, which stated that the defendant-petitioners had raised construction over the suit property. It has further been contended that an appeal has been preferred against the judgment and decree dated 07.12.2018.

7. Heard.

8. In the present case the plaintiff-respondent herein filed a simpliciter suit for permanent injunction in which vide order dated 19.03.2010 (Annexure P-1) *status quo* possession was directed. Subsequently, an

application was filed by the plaintiff-respondent, relevant portion of which has been reproduced hereinabove, alleging therein that only the bricks had been put on the disputed property by the defendant-petitioners. Reply was filed to the said application. The Trial Court vide a detailed order dismissed the application holding that merely putting of bricks and sand at the spot cannot be considered as violation of order directing status quo qua possession. It was further held that possession of the plaintiff-respondent itself was not proved at the relevant time. The reliance of learned counsel for the plaintiff-respondent on the report of the Local Commissioner would not come to his aid inasmuch as the civil suit itself stands dismissed vide judgment and decree dated 07.12.2018 categorically holding that the plaintiff-respondent had failed to produce any evidence to prove his case in accordance with the law. Once the plaintiff-respondent has been held not to be in possession of the suit property and when the interim order has merged with the final order, there would be no ground to hold the defendant-petitioners guilty of any contempt.

9. In view of the above, present revision petition is allowed and the impugned order dated 30.07.2018 stands set aside.

10. Disposed off. Pending applications, if any, also stand disposed off.

11.11.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO