

Sunehra Ram Vs Ram Kumar and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 9, 2009

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 39 Rule 2A

Citation: (2009) 156 PLR 278

Hon'ble Judges: Rakesh Kumar Garg, J

Bench: Single Bench

Judgement

Rakesh Kumar Garg, J.

Mr. S.K. Sharma Budhladawale, Advocate, has appeared in the case and filed his power of attorney on behalf of

the petitioner which has been duly signed by Mr. P.N. Arora, Advocate, giving him no objection to appear in this case in his substitution. The

power of attorney is taken on record.

2. The present contempt petition has been filed by the petitioner for violation of order dated 15.10.1999 (Annexure P-2) passed by this Court in

CM No. 7097 of 1999 in R.S.A. No. 4073 of 1999 wherein the parties were directed to maintain status quo regarding possession.

3. It is the case of the petitioner that vide Annexure P-I, i.e. Judgment dated 15.5.1999 passed by the Additional District Judge, Kurukshetra, it

was held that the petitioner was in possession of the property in dispute and the defendant-respondents in that appeal (now respondents) were

restrained from interfering in the possession of the plaintiff (petitioner) and were further restrained from raising any construction over the suit

property. It is the further case of the petitioner that despite the aforesaid status quo order granted by this Court vide order Annexure P-2, the

respondents herein on the night of 7.4.2009 have constructed a wall measuring 41 feet in length and 8 feet in height with a view to take forcible

possession of the plot and thus, have violated the interim order issued by this Court and are guilty of contempt of Court and are liable to be suitably

punished.

4. I have heard learned Counsel for the petitioner.

5. Undisputedly the order dated 15.10.1999 is the interim order. The Hon"ble Supreme Court of India in the case of Food Corporation of India v.

Sukh Deo Parsad 2009(2) R.C.R. (Civil) 834, has categorically held that when an interim order is disobeyed, contempt or penal proceeding do

not lie as the aggrieved party has remedy to file execution under Order 39 Rule 2A CPC. Admittedly the matter is pending before this Court in

R.S.A. No. 4073 of 1999 and the petitioner has also moved an application for necessary relief in that appeal. Moreover, the order dated

15.10.1999 is not in operation as the same was modified vide order dated 15.10.2001 passed in the regular second appeal and operation of the

judgment and decree of the Lower Appellate Court was stayed.

6. In view of the aforesaid matter, this Court is not inclined to take cognizance of this contempt petition.

7. Disposed of.

8. Faced with this situation the learned Counsel appearing on behalf of the petitioner has stated that the petitioner also moved application i.e. CM.

No. 6949-51-C of 2009 in R.S.A. No. 4073 of 1999 for restraining the respondents (appellant in R.S.A. No. 4073 of 1999) from raising further

construction on the disputed plot during the pendency of the aforesaid appeal, which is fixed for 4.8.2009. It is needless to say that the petitioner

may pursue any other appropriate remedy available to him.