

(2001) 07 P&H CK 0204

High Court Of Punjab And Haryana At Chandigarh**Case No:** C.W.P. No. 13330 of 1999 (O and M)

Amarjit Singh

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision: July 11, 2001**Acts Referred:**

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J**Bench:** Division Bench**Advocate:** Rajan Lakhanpal, for the Appellant; M.C. Berry, D.A.G. Punjab, for Respondent Nos. 1 to 4 and Mr. Har Naresh Singh Gill, for the Respondent No. 5, for the Respondent**Final Decision:** Dismissed

Judgement

Jawahar Lal Gupta, J.

The Petitioner, a Non Resident Indian, has approached this Court with the prayer that a writ order or direction be issued to the official Respondents to provide him "adequate security... to enable him to continue in his rented house without any fear or threat and for taking appropriate action against the landlord Joginder Singh and Nihangs threatening "him to "vacate the house on account of facts and circumstances mentioned in the writ petition.

2. The Petitioner alleges that the Respondent-landlord is troubling to vacate the house. He apprehends danger from him. He has filed a civil suit at Kharar, praying for permanent injunction along with an application for the issue of a temporary injunction restraining the landlord from forcibly dispossessing him. Despite the interim order, the Respondent-landlord had disconnected the electricity supply and stopped the water supply. Despite the undertaking before the Court, the electricity connection has not been restored. On September 5, 1999 he was "called by Baba Naagar Singh, Niang of village Saulkhia, District Ropar. and threatened that he should vacate the demised house immediately or else the Nihangs will forcibly evict

him..." This threat was repeated by Baba Sumitar Singh of Haria Bela Wale at Hoshiarpur. On receipt of these threats, the Petitioner claims to have met the Station House Officer, Police Station, Mohali, on September 7, 1999. However, no action was taken. On September 8, 1999 some Nihangs came in a Jeep and entered the Petitioner's house. The matter was reported to the police. Copies of the representation and receipt have been filed as Annexures P1 and P2. On these premises, the Petitioner prays for the issue of a direction as aforesaid.

3. The allegations made by the Petitioner have been denied in the reply filed by Mr. Bachan Singh Randhawa, Superintendent of Police, Mohali, on behalf of Respondent Nos. 1 to 4. It has been pleaded that the writ petition is not competent. It has been averred that the Petitioner's allegation that he met the Station House Officer, Police Station, Mohali, On September 7, 1999, "is wrong and incorrect." It has been categorically stated that the Petitioner never informed the S.H.O. that he is under "some sort of fear or threat by anyone." The receipt of the representation, a copy of which has been produced as Annexure P1, has been admitted. On receipt of this representation, the S.S.P., Ropar, had asked for a report. This report was sent on September 21, 1999. A copy of the report has been produced as Annexure R1 with the reply. It was found that the Respondent-landlord was residing at the first floor while "while complainant resides at ground floor. Both parties are indulged in civil suit (sic) at Kharar Court to vacate the house. Rest threatening by Baba Naagar Singh of village Saulkhia Distt. Ropar and Baba Sumitar Singh of Haria Bela Wale, Hoshiarpur, the occurrence area does not fall in Mohali Police jurisdiction, so the complaint may be sent to concerned Police Station for investigation." The dispute is between the landlord & tenant. It is of a civil nature. The Petitioner is blowing the matter out of proportion only to claim security.

4. A separate written statement has been filed by way of an affidavit of Joginder Singh, Respondent No. 5. In this reply it has been, inter alia, alleged that the premises had been let out to the Petitioner at a monthly rent of Rs. 10,000/-. The Petitioner has not paid anything since January 1999. A suit for possession along with a suit for recovery of arrears of rent and damages was filed on June 30, 1999. The Petitioner had refused to accept the notice. The suit was adjourned to June 30, 1999. There was an announcement regarding the suit by beat of drum. However, the Petitioner did not put in appearance. The suit was adjourned to November 2, 1999 to serve the Petitioner by way of affixation. The Petitioner was, thus, delaying the suit intentionally. He says that the Petitioner's apprehension is ill-founded. The Petitioner had filed the suit by making wrong assertions. Electricity supply had been disconnected as the Petitioner had not paid the electricity bills. However, it was restored in compliance to the order of the Court. In fact, the Electricity Department had disconnected the supply and Respondent No. 5 had to get the connection restored by making full payment from his own pocket. A copy of the receipt issued by the authority has been produced as Annexure R.2. The allegations regarding threats from the Nihangs have been denied. A copy of the plaint in the suit filed by

Respondent No. 5 has been produced along with the written statement.

5. It appears from the record that in view of the dispute on facts, a Bench of this Court had appointed Mr. Sanjeev Pandey as a Local Commissioner. His report is on the file. The fifth Respondent has filed objections to the report. The Petitioner has filed his reply to the objections. The parties have also filed various miscellaneous applications.

6. Counsel for the parties have been heard.

7. Mr. Lakhanpal contends that the Petitioner is entitled to the restoration of possession. He points out that the Local Commissioner had found that the "premises are not in possession of the Petitioner...."Thus, this Court should direct Respondent No. 5 to hand over the possession to him. He further submits that the State should be directed to provide adequate security to the Petitioner.

8. The claim on behalf of the Petitioner has been controverted by the Learned Counsel for the Respondents.

9. Mr. M.C. Berry, Senior Deputy Advocate General, submits that it is a typical dispute between a landlord and a tenant. The matter is pending before the Civil Court. No ground for interference under Article 226 of the Constitution is made out.

10. Mr. Har Naresh Singh Gill, Learned Counsel for Respondent No. 5, submits that the Petitioner has not paid a penny by way of rent. Yet, he has remained in occupation of the property. The neighbour had informed the Local Commissioner that the Petitioner had been seen coming out of the house. Thus, the allegation that the Petitioner is not in possession and the finding that the landlord is in possession is wrong. He points out that alongwith the objections to the report of the Local Commissioner, the affidavits of two neighbours mentioned in the report have also been produced. He further submits that the issues as arising in this case, are already pending consideration before the Civil Court. The allegations regarding threat are false and untenable. Thus, he prays that the writ petition be dismissed.

11. Keeping in view the fact that the dispute between the parties is pending before the Civil Court, we do not consider it appropriate to comment upon the merits of the controversy. However, it is apparent that there is a serious dispute on facts. This dispute cannot be resolved without recording evidence. Since the matter is pending before the Civil Court, we shall not like to say anything more. However, we find no ground to issue any direction to the Respondents in this case. If the Petitioner has any threat, he can initiate proceedings before the Court. However, on the record before us, we find nothing to sustain the Petitioner's prayer. This is all the more so, in view of the fact that even the persons, who are alleged to have threatened him, have not been impleaded as parties despite the fact that the Petitioner knows their identity.

12. In view of the above, the writ petition is dismissed. The parties are left to bear their own costs.

Sd/- Ashutosh Mohunta, J.