

(2001) 10 P&H CK 0170

High Court Of Punjab And Haryana At Chandigarh

Case No: C.O.C.P. No. 1386 of 1999

Punjstar Standard Electronics
Ltd.

APPELLANT

Vs

Baljit Singh Sandhu

RESPONDENT

Date of Decision: Oct. 15, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 39 Rule 1, Order 39 Rule 2
- Contempt of Courts Act, 1971 - Section 12

Citation: (2001) 4 RCR(Criminal) 791

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: Ranjivan Singh, for the Appellant; I.K. Mehta and M.S. Kohli, for the Respondent

Judgement

R.L. Anand, J.

Messrs Punjstar Standard Electronics Limited- Petitioner has filed the present contempt petition u/s 12 of the Contempt of Courts Act, 1971 against Shri Baljit Singh Sandhu, Chairman Messrs Pinnacle Group of Companies Regd. and it has been prayed by the petitioner that the respondent has willfully disobeyed the order dated 29th October, 1999 passed by the Court of Civil Judge (Junior Division), Kharar.

2. The brief facts of the case are that the petitioner entered into lease/rent deed with Messrs Pinnacle Group of Industries vide which it was agreed upon to lease out the half portion of the main hall of the factory measuring about 7200 sq. feet and one lavatory block measuring about 300 sq. feet from the total area of the factory which is 6.2 acres i.e. 2,70,000 sq. feet. The monthly rental agreed upon was Rs. 62,000/- between the parties w.e.f. 1st February, 1999. It was also agreed upon with the tenant that if the tenant desired more space, it could occupy approximately 1,00,000 sq. ft. of the uncovered area around the building. The respondent Messrs

Pinnacle Group of Companies did not abide by the terms of the lease/rent deed, as a result of which, the petitioner filed a suit for permanent injunction restraining the defendant company from interfering in any manner in the site plan shown as A B C E and further it was prayed by the petitioner that the respondent-defendant be restrained from raising any construction or addition.

3. The suit came up for hearing before the learned Civil Judge (Junior Division), Kharar on 21st July, 1999 and the learned Civil Judge (Junior Division) passed the following order :

Office report seen. It be registered. Along with the main suit an application has been filed under Order 39, Rules 1 and 2 C.P.C. which is accompanied by duly sworn affidavit, copy of site plan, rent deed, etc. Finding a prima facie case at this stage for the grant of an ex parte status quo order, the parties are directed to maintain status quo regarding possession and permanent construction in the suit property except in due course of law. Compliance to be made. Notice to suit and stay application be issued on PF, copy for 23.7.1999. Dasti process is to be taken to ensure service.

4. The case was adjourned to 29th October, 1999 on which date the defendant made a statement before the Court that it will comply with the order dated 21st July, 1999 and Mela will be organised only in the property taken over through lease deed dated 13.11.1998. On this statement of the defendant, the learned Civil Judge (Junior Division), Kharar passed the following order:

"Heard. Counsel for plaintiff seeks police help on basis of application dated 26.10.1999. On notice the said application has been opposed. The rent deed, various advertisements etc. are on the file. The counsel cited 1999 Supplementary Civil Court Cases page 371 vide order dated 21.7.1999 status quo regarding possession and permanent construction was ordered with respect to the suit property. The written statement has not yet been filed. The counsel for the defendant has made a statement in Court today for ensuring compliance of order dated 21.7.1999 and undertaking that the Mela will be organized only in the property taken through lease deed dated 13.11.1998. In these circumstances, I am of the view that at this stage no direction on the application dated 26.10.1999 is necessary and the case is adjourned to 10.11.1999 for filing written statement."

5. The submission of the learned counsel for the petitioner is that in spite of the undertaking given by the respondent on 29th October, 1999, the respondent organized a Mela on the entire area belonging to the petitioner and there is a clear violation of the undertaking and the order of the learned Civil Judge (Junior Division), Kharar. In support of his contention, the learned counsel for the petitioner has invited my attention to the document Annexure P-4, an advertisement, which was given by the respondent inviting attention public to attend Diwali Mela to be organized from October 29 to November 6, 1999 from 10.00 A.M. to 8.00 P.M. It will be appropriate for me if I reproduce the contents of this advertisement:

"If school is boring, movies are drab, life is dull...

And you are looking for fun then come join the excitement.

Magic shows and joy rides, lucky draws and prizes...

Over 100 stalls spread over 7 acres for full Diwali shopping of gifts, sweets and crackers-Thrilling

Camel and House rides, yummy foods and drinks, and aatishbaazi- a spectacular light and sound show on the last three days, at The pinnacle Exposition Centre A-12, Phase VI Industrial Area, Mohali from October 29 to November 6, 1999 10 A.M. to 8 P.M."

6. I have heard the learned counsel for the parties and with their assistance, have gone through the record of this case.

7. The learned counsel for the respondent submits that the present contempt petition is not maintainable for the reason that if there is any violation of the order of the Civil Judge (Junior Division) then the petitioner may file an application under Order 39, Rule 2-AC.P.C. Further it was submitted that the total area of the plot is 6.2 acres whereas in the advertisement there is a mention of about 7 acres. It has been submitted that the respondent has organized the Mela in the area which was leased out and, therefore, no contempt is made out. Merely issuance of the advertisement does not indicate that the respondent organised the Mela over the excess area which was not under his tenancy. It was also submitted on behalf of the respondent that the petitioner has filed seven litigations against the respondent because the petitioner wants to harass the respondent. In these circumstances, he has come with the present contempt.

8. After hearing the learned counsel for the parties, I am satisfied that the respondent has willfully violated the order of the learned Civil Judge (Junior Division) and, therefore, this Court is contempt to take cognizance. Judicial Orders whether passed by the High Court or by the subordinate Courts are supposed to be respected and not to be flouted. A reference to the advertisement, Annexure P-4, would show that the respondent invited the public to attend the Diwali Mela where he wanted to convene Magic shows, joy rides, lucky draws and prizes. Categorically it has been mentioned that respondent intended to put 100 stalls spread over 7 acres for full Diwali shopping of gifts, sweets and crackers etc. So much so camel and horse rides. Yummy food and drinks and aatishbaazi, light and sound show were also supposed to be organized. All these activities could not be possibly arranged in an area which was the subject-matter of tenancy. There was a clear undertaking on behalf of the respondent that he would not use the area more than his tenancy. In this view of the matter, I am of the opinion that Shri Baljit Singh Sandhu, Chairman of the respondent Company has committed a wilful breach of the order of the learned Civil Judge (Junior Division), Kharar, for which he must be

punished. I impose a penalty of Rs. 2000/- upon the respondent, which shall be paid to the respondent within fifteen days. In default of payment of fine, the respondent Shri Baljit Singh Sandhu shall undergo simple imprisonment for three months. The respondent Shri Baljit Singh Sandhu is further directed not to violate the orders dated 21st July, 1999 and dated 29th October, 1999. Any fresh violation will give a further cause of action to the petitioner seeking intervention of this Court for punishment.

9. Order accordingly.