

Narinder Singh Vs State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 28, 2014

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 21 Rule 32

Hon'ble Judges: Surinder Gupta, J

Bench: Single Bench

Advocate: R.D. Bawa, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Surinder Gupta, J.

Heard.

2. Learned counsel for the petitioner submits that with regard to the land of the Central Government, a suit for injunction was filed which was

decreed by the civil Court vide judgment and decree dated 09.03.1998 (Annexure P-2). He further submits that the appeal filed against the

judgment and decree of the civil Court was dismissed and thereafter, an application was filed on 16.07.2009 under Order 21 Rule 32 CPC (for

short "CPC") in which vide order dated 28.05.2009 the property of Sarpanch of Gram Panchayat was ordered to be attached for non-

compliance of the civil Court decree.

3. Learned counsel for the petitioner has argued that despite the civil Court decree, the petitioner is not in a position to cultivate the land measuring

126 kanals 16 marlas. He seeks direction of this Court to the police of Amritsar to provide protection to the petitioner and his family members

while cultivating the land in question.

4. A perusal of the file shows that a civil suit was filed by the petitioner in the year 1995 against the gram panchayat village Talwandi Rai Dadu and

others which was decreed against gram panchayat (non-petitioner) and respondents No. 5 and 6 and they were restrained from dispossessing the

plaintiff from the suit land. It appears that gram panchayat filed an appeal against the judgment and decree of the civil Court dated 09.03.1998

(Annexure P-2) which was dismissed.

5. The petitioner moved an application under Order 21 Rule 32 CPC against gram panchayat village Talwandi Rai Dadu, Sawinder Singh, Sahib

Singh, Baldev Singh alias Gusha and Hira Singh for taking action against them for interfering in his peaceful possession, wherein vide order dated

28.05.2009 (Annexure P-4), only Balwant Singh Sarpanch of village Talwandi Rai Dadu was held liable for violating the terms of the judgment and

decree dated 09.03.1998 and his property was ordered to be attached. The persons mentioned in the application from serial No. 2 to 5 are not

party to this petition. The civil Court has found only Balwant Singh as responsible for not following the civil Court decree. There is no civil Court

decree against respondents No. 7 to 9 and 11 to 13. Nothing has been produced on file to show as to what has transpired in the proceedings

under Order 21 Rule 32 CPC initiated in the year 2009. Even in the representation (Annexure P-6) to the police, the petitioner has only sought

help in raising construction over the suit property and restraining Balwant Singh not to dispossess the petitioner. A period of four years has elapsed

after the passing of that order in proceedings under Order 21 Rule 32 CPC and the petition is silent about further proceeding after 28.05.2009 and

even the learned counsel for the petitioner is not aware about the same. Moreover, the civil Court has found only Balwant Singh as responsible for

violating the terms of the judgment and decree and initiated action against him by attaching his property.

6. Learned counsel for the petitioner submits that when the decree has been passed in favour of the petitioner, the assistance of the police help can

be allowed to protect the possession of the petitioner over the land measuring 126 kanals 16 marlas belonging to Central Government. He has

placed reliance on the observation in cases Satyanarayana Tiwari Vs. S.H.O.P.S. Santhoshanagar, Hyderabad and Others, and P.R. Murlidharan

and Others Vs. Swami Dharmananda Theertha Padar and Others,

7. On perusal of the file and the documents as discussed above, it is clear that the civil Court is seized of the matter. This petition appears to have

been filed by concealing material facts relating to the order of the civil Court passed on the petition under Order 21 Rule 32 CPC after

28.05.2009. The observations in the case of Satyanarayana Tiwari (supra) are not applicable to the facts of the present case. In that case, the

order of injunction by the trial Court was upheld upto the High Court and it was observed that where the High Court has confirmed the injunction

order, it is not powerless to enforce the same. In the case of P.R. Murlidharan and others (supra), the respondent had filed a suit claiming title of

Madathipathi and Sthiradhyakshan (Vidayampadi Asharamam), which was dismissed in default and the application for restoration of the suit was

also dismissed. He filed a writ petition in Kerala High Court seeking police protection in which the question was framed as to whether the

petitioner was entitled to hold the office of Madathipathi and Sthiradhyakshan so as to allow him the required protection. The protection was

allowed after holding that the petitioner was entitled to hold the aforesaid office. The Hon"ble Supreme Court set aside the order of the Hon"ble

High Court with the observation that the High Court should not have undertaken the exercise to determine a question of fact.

8. The observations in both the above cases are distinguishable and not applicable to the facts of the present case.

9. When the civil Court is seized of the matter and is competent to allow the police help, if so required for the implementation of its decree/orders,

it will not be appropriate to intervene and allow the police assistance in this petition.

10. There is no merit in this petition.

11. Dismissed.

12. It is, however, made clear that nothing observed hereinabove shall be read as expression of opinion of this Court on any point in issue on

merits or prejudice the right of the petitioner to seek the remedy of police help for implementation of civil Court decree/order in accordance with

law in appropriate proceedings.