

(2014) 07 P&H CK 0848

High Court Of Punjab And Haryana At Chandigarh

Case No: Crl. Misc. No. M-24506 of 2014 (O&M)

Narinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 28, 2014

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - 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.