

COCP No.1087 of 2017
Date of Decision: 8.4.2019

Kshmiri Lal

.....Petitioner

Versus

Chander Shekhar Khare and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Som Nath Saini, Advocate, for the petitioner.

Mr. Ashish Yadav, Additional Advocate General, Haryana.

Mr. Arun Jain, Sr. Advocate with

Mr. Dhruv Mittal, Advocate, for respondent No.4.

NIRMALJIT KAUR, J. (ORAL)

The present contempt petition has been filed for non-compliance/violation of the order dated 15.12.2015, vide which, direction was issued that the possession of the Gram Pachayat land be taken from the petitioner or from any other such beneficiary immediately after the case is decided by the Consolidation Officer and it shall be ensured by the Collector, Panipat that the petitioner or anyone else are not allowed to enjoy the Gram Panchayat land as soon as the matter is decided by the Consolidation Officer.

It is contended that the respondents have till date not taken over the possession from the petitioner i.e. the respondent herein and the respondent is continuing to enjoy the Gram Panchayat land. Hence, it is brought to the notice of the Court that the petitioner challenged the order passed by the Consolidation Officer by way of filing of CWP No.18190 of 2016, wherein all the pleas raised herein have also been raised in the said writ petition, in which, leaned Bench vide order dated 9.9.2016 stayed the order passed by the Consolidation Officer.

Subsequently, on 6.4.2018 another order permitting the respondents to harvest the crops on the disputed land was passed.

Hence, the petitioner having challenged the order of the Consolidation Officer by way of separate writ petition, nothing really survives in the present contempt petition, however, learned counsel for the petitioner still proceeded to raise the following arguments:-

(a) The Collector was made responsible to ensure that the petitioners therein are not allowed to enjoy the Gram Panchayat land, but, still the Collector has done nothing.

(b) The direction was that the possession of the Gram Panchayat land shall be taken from the petitioners or any other beneficiaries, but the same is still in the possession of the respondents.

(c) The Division Bench on an application moved by him for compliance of the order dated 21.4.2017 disposed of the said application by ordering that the remedy of the appellant was elsewhere and therefore, it was only thereafter, the present contempt petition was filed.

The first two arguments cannot be sustained in view of the fact the said directions to the respondents and the Collector were conditional. The said steps could be initiated only after the case was decided by the Consolidation Officer. The very order passed by the Consolidation Officer in pursuance to the order dated 15.12.2015 even though allegedly in contradiction and in violation of the order dated 15.12.2015 has been challenged by the petitioner himself by way of filing of CWP No.18190 of

2016, which is still pending. The third argument as noticed above also does not help. The writ petition challenging the order of the Consolidation Officer is still pending. Therefore, once, the Court is seized of the matter and dispute herein which is also subject matter of the writ petition, it would not be appropriate to proceed with the present contempt petition any further.

Therefore, no contempt can be said to be made out at this stage, the same is dismissed.

Learned counsel for the petitioner raised yet another argument that respondent No.4 in the present contempt petition was a third party and had no business to move application before the Deputy Commissioner for staying the order and still the Deputy Commissioner proceeded to pass an order at his behest. However, those being separate proceedings, which have already been challenged in CWP No.18190 of 2016 cannot be adjudicated in the present contempt petition.

Rule issued against the respondent stand discharged.

(NIRMALJIT KAUR)
JUDGE

8.4.2019
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No