

Gian Singh Vs.

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Court : Punjab and Haryana

Decided On : Sep-24-2013

Appellant : Gian Singh

Judgement :

CRM No.M-6279 of 2012 (O&M) -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH (229) CRM No.M-6279 of 2012 (O&M) Date of decision: 24.09.2013.

Gian SinghPetitioner Versus Guram Singh and othersRespondents
CORAM: HON'BLE MRS.JUSTICE SABINA Present: Mr.A.S.Kalra, Advocate for the petitioner.

Mr.Neeraj Yadav, AAG, Punjab.

Mr.G.P.S.Bal, Advocate for respondent Nos.1 to 7.

**** SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') challenging the order dated 17.01.2012 whereby, proceedings initiated by the Sub-Divisional Magistrate under Section 145 Cr.P.C.were ordered to be dropped.

Learned counsel for the petitioner has submitted that the learned Sub-Divisional Magistrate had rightly ordered the initiation of proceedings under Section 145

Cr.P.C.as there was apprehension of breach of peace.

Parties were involved in criminal Sandeep Sethi 2013.09.26 14:40 I attest to the accuracy and integrity of this document CRM No.M-6279 of 2012 (O&M) -2- as well as civil litigation.

Land in question was in joint possession of the parties.

Learned counsel for respondent Nos.1 to 7, on the other hand, has opposed the petition and has submitted that civil litigation qua the land in question was pending between the parties.

Further partition proceedings were also pending between the parties.

Consequently, proceedings under Section 145 Cr.P.C.could not be initiated.

Annexure P-22 is the Calendra submitted by the Station House Officer, Police Station Goraya praying for initiation of proceedings under Section 145 Cr.P.C.It was alleged therein that the land in question was still joint between the parties.

Proceedings under Sections 107/151 Cr.P.C.had been initiated.

FIR No.112 dated 26.09.2009 under Sections 323, 325, 148 and 149 of the Indian Penal Code, 1860 was also registered at Police Station Goraya hence, there was apprehension of breach of peace.

Learned Sub-Divisional Magistrate ordered that the land be attached under Section 146 (1) Cr.P.C.and appointed a Naib Tehsildar as receiver of the land in question vide order dated 11.10.2010 (Annexure P-23).The said order was set aside by the Court of Revision vide impugned order dated 17.01.2012.

The learned Additional Sessions Judge, while allowing the revision petition held that Gian Singh was Non- Resident Indian and was settled in Canada along with his family.

Civil suit had been filed by Preeto against Gian Singh and others Sandeep Sethi 2013.09.26 14:40 I attest to the accuracy and integrity of this document CRM

No.M-6279 of 2012 (O&M) -3- claiming 33 kanals and 4 marlas of land from the joint property.

Suit for permanent injunction had been filed by Gurnam Singh and others against Gian Singh and Jarnail Singh.

The learned Court of Revision held that civil litigation between the parties qua the land in question is still pending and no ground for initiation of proceedings under Section 145 Cr.P.C.was made out.

In the present case, admittedly partition proceedings are pending between the parties.

Civil litigation is also pending between the parties.

Thus, parties have resorted to their remedy of getting the land partitioned.

In these circumstances, the learned Court of Revision rightly allowed the revision petition and set aside the order dated 11.10.2010 passed by the Sub-Divisional Magistrate.

Hence, no ground for interference is made out.

Dismissed.

(SABINA) JUDGE September 24, 2013.

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