
(2018) 08 P&H CK 0301

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No.-36803 Of 2018

Davinder Singh Sandhu

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 28-08-2018

Acts Referred:

Punjab Land Preservation Act, 1900 — Section 4, 5
Indian Penal Code, 1860 — Section 148, 149, 323, 341, 427, 506

Citation : (2018) 08 P&H CK 0301

Hon'ble Judges : ARVIND SINGH SANGWAN, J

Bench : Single Bench

Advocate : S.K. Chawla

Final Decision : Dismissed

Judgement

Prayer in this petition is for issuance of directions to respondents No.2 & 3 to register an FIR against respondents No.4 to 17, as despite sending a representation dated 09.08.2018 (Annexure P-22), no action has been taken.

Learned counsel for the petitioner submits that the petitioner has purchased a share in Khasra No.873 as per sale deed dated 12.04.2018 (Annexure

P-1). When the petitioner started raising construction over the same, he obtained electricity connection and telephone connection but the Forest Range

Officer issued a notice (Annexure P-12) under Sections 4, 5 of Punjab Land Preservation Act, 1900 (for short 'PLPA Act, 1900'), directing the

petitioner to stop the construction on khasra No.860, which as per Sections 4 & 5 of the PLP Act, 1990 is prohibited area, declared by the Punjab

Govt. The petitioner filed the reply (Annexure P-13) to the said notice stating that the name of the petitioner has been distorted as name of the

petitioner is Davinder Singh Sandhu, whereas in the notice, it is addressed as â??

Davinder Sandhu and prayed for withdrawal of the notice. It was further stated that the land owned by the petitioner is free from all encumbrances and is neither prohibited nor reserved or regulated by any statute or

rule and the petitioner has a right to raise construction being a bonafide purchaser of the land. It is further submitted that thereafter, Harmohinder

Singh Sandhu, father of the petitioner, had filed a civil suit (Annexure P-14) praying for recovery of damages against the private respondents, as by

giving the incomplete name in the notice, by deleting 'Singh', has hurt his religious sentiments and the said suit is pending.

Learned counsel further submits that even few of the private respondents Mahinder Singh and others have filed a suit for permanent injunction against

the present petitioner praying for a decree that the defendant/petitioner be restrained from interfering in the peaceful possession over the land

comprising in khasra No.860 situated at Village Choti Bari Nagal HB No.339, Tehsil Kharar, District SAS Nagar, Mohali, in which the petitioner,

through his counsel, had made a statement that he is not going to raise any construction over Khasra No.860 and thereafter, the said suit was

withdrawn.

Learned counsel has argued that in the intervening period, an FIR No.27 dated 02.06.2018 under Sections 323, 341, 427, 506, 148, 149 IPC, was also

got registered at Police Station Mullanpur, District SAS Nagar by one Sumeet Singh son of Pawan Kumar, an employee of the petitioner against some

of the private respondents with the allegations that he is working as Manager with Sandhu Farm and 7-8 persons armed with weapons came at the

spot, gave him beatings and started demolishing the pillars from the spot and the said FIR is pending. It is further argued that the petitioner has got the

demarcation from the revenue officials, which shows that the land bearing Khasra No.860, which the private respondents claim to be their land, is at a

distance of 150 karams from the land bearing Khasra No.873, some part of which is purchased by the petitioner and he is raising construction over his

own land. It is also argued that on 10.08.2018, the private respondents have demolished the construction of the petitioner under the supervision of

District Forest Officer by taking the construction as illegal.

Learned counsel for the petitioner has relied upon a newspaper report (Annexure

P-23), in which it is highlighted that under the supervision of DFO

and the Duty Magistrate-cum-Naib Tehsildar, the construction raised by him was demolished from the land, which is under the forest area. It is lastly

submitted that with regard to illegal demolition, the petitioner has already given a complaint to the highest dignitaries as well as the police officers

stating that father of the complainant Sh. Harmohinder Singh Sandhu has filed a suit for recovery of damages, which is pending, as in the notice issued

by the Forest Department, by not mentioning the word 'Singh', the accused persons have hurt his religious sentiments. It is also stated in the complaint

that the demolition work was done wrongly with a motive to force Sh. Harmohinder Singh Sandhu to withdraw the aforesaid suit.

After hearing learned counsel for the petitioner, I find no merit in the present petition.

Admittedly, before demolishing the construction raised by the petitioner, a notice under Section 4 of the PLP Act, 1900 was issued, to which a reply

was filed by him primarily stating that by mentioning name of the petitioner as â??Davinder Sandhuâ? instead of â??Davinder Singh Sandhuâ? son of

â??Harmohinder Sandhuâ? instead of â??Harmohinder Singh Sandhuâ?, it has hurt the religious sentiments of the petitioner as he belong to Sikh

religion and even his father has also filed a suit for recovery of damages in this regard. However, the petitioner, instead of resorting to his civil remedy

by challenging the said notice either by filing appeal under the Act or before the Civil Court or before the Writ Court, has filed the present petition

alleging that after expiry of the period of notice, construction raised by the petitioner has been demolished by the District Forest Officer under the

supervision of the Duty Magistrate by treating the same as illegal construction over the forest land and therefore, FIR be registered against them.

It may be worth noticing here that even the demarcation report set up by the petitioner, so far is not accepted by any Court and the petitioner instead

of availing his civil remedies, has rather filed the present petition, which is not maintainable.

Moreover, till date, the petitioner has got no declaration from the competent Court of law that the land underneath the disputed construction is not

forest land and therefore, the District Forest Officer was competent to carry out demolition of the illegal construction raised on the forest land and

therefore, no direction for registration of the FIR against respondents No.4 to 17 can be issued.

Dismissed.