

(1958) 08 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Criminal Original Side No. 20 of 1958

Gurbachand Singh, Lachhman Singh

APPELLANT

Vs

Ch. Hoshier Singh and Another

RESPONDENT

Date of Decision : 18-08-1958

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1959 P&H 205 : (1959) CriLJ 643

Hon'ble Judges : D. Falshaw, J

Bench : Single Bench

Advocate : H.S. Gujral, for the Appellant; Chetan Das, Asstt. Advocate-General, for the Respondent

Judgement

D. Falshaw, J.—This is a petition u/s 3, Contempt of Courts Act, filed by Gurbachan Singh against two officers both named Hoshier Singh, one of whom is the Sub-Divisional Magistrate, Sirsa, while, the other is Naib Tehsildar cum Managing Officer at Sirsa.

2. The facts of the case are that the petitioner is one of a number of persons who were considered by the authorities to be in an unlawful occupation of certain lands situated at a village called Kariwala, and the decision had been taken by the authorities to eject them, with police assistance, if necessary. This dispossession was apparently to take place on 20-5-1958. The present petitioner and a number of others who were thus threatened with dispossession filed petitions in this Court under Article 226 of the Constitution challenging the action of the authorities.

These petitions apparently came before my Lord the Chief Justice on 16-5-1958 when he issued an order staying dispossession until the 19th of May, when the petitions were to come up for admission before a Division Bench on the 19th of May, stay order was extended up to the 23rd of May for the purpose of enabling

the petitioners to produce certain relevant copies.

3. It is not in dispute that the first order staying dispossession up to the 19th of May was brought to the notice of both the respondents on the 19th of May on which date the communication from the High Court reached Sirsa. It is also not in dispute that on the morning of the 20th of May both the Sub-Divisional Magistrate at Sirsa and the Naib Tehsildar, who was already in the village, were informed by the interested parties who had received information from counsel, and also had counsel with, them at the time, that an extension of the stay order up to the 23rd of May had been granted by this Court.

In spite of this fact it is alleged that in the village the Naib Tehsildar formally dispossessed the present petitioner and handed, over his land to one Budh Singh though he refrained from carrying out any further acts of dispossession since apparently there was a crowd present and he feared that the police who were present to assist him might not be sufficient to cope with any outbreak of disorder which might take place.

4. As I have said, the facts as set out above are not seriously disputed and the position adopted on behalf of the respondents is that they felt that they were within their rights in carrying on with the execution of the order for dispossession on the 20th of May after the stay granted up to the 19th of May had expired unless and until the extension of the stay order was officially communicated to them by the High Court.

5. While there are undoubtedly authorities for the proposition that an officer is not bound to obey a stay order until the order is officially communicated to him, and he is not bound to accept the assurance of any interested party that a stay order has been granted, none of these cases is on a par with the present case.

Of course each case of this kind must depend on its own facts and it must also be pointed out that there are authorities to the effect that when an officer is credibly informed of the passing of a stay order he may be guilty of contempt if he persists in carrying out the action which has been ordered to be stayed and it is not a necessary ingredient of the offence of contempt that the order should have been officially communicated to him.

6. In the present case it would seem that the respondents were determined to carry out the dispossession of the present petitioner and other persons similarly placed in spite of the fact that they were already officially aware of a stay order in force up to the 19th of May, and were informed by responsible persons early on the morning of the 20th of May that the stay order had been extended for a further period by the High Court, and there would appear almost to have been a race to carry out the dispossession on the 20th of May before the official communication from the High Court could reach Sirsa, and the fact that only the present petitioner out of the persons affected was actually dispossessed was evidently not due to any particular respect of the orders of the High Court.

At the same time in view of the existence of the authorities now relied on by the respondents I feel bound to accept their contention that they believed that they were not bound to hold their hands in the absence of the official communication of the High Court's order and on this account, although I am of the opinion that both the respondents are guilty of contempt of the orders of this Court, I do not propose to punish them by sentencing them to imprisonment and consider that it would be sufficient to warn them not to act in this manner again in future. They are ordered to pay Rs. 50/-each as costs of the petitioner.