

(2011) 02 DEL CK 0016

In the Delhi High Court

Case No : Writ Petition (Criminal) 73 of 2011

Sadhu Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Criminal Procedure Code, 1973 (CrPC) — Section 107, 150, 482

Citation : (2011) 02 DEL CK 0016

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Maldeep Sidhu, for the Appellant; Saleem Ahmed, ASC for R1, 4 and 5/State and Gajender K. Singhal, for R2 and 3, for the Respondent

Judgement

Hima Kohli, J.—The present petition is filed by the Petitioner under Article 226 of the Constitution of India read with Section 482 Code of Criminal Procedure praying inter alia for directions to Respondents No. 4 and 5 to provide protection to the Petitioner by filing FIR against Respondents No. 2 and 3 and further restraining them from entering the property of the Petitioner and harassing him. Respondent No. 2 is the elder son of the Petitioner.

2. Status report is handed over by the learned ASC for State. In para 1 of the status report, it is mentioned that on 15.1.11, a DD No. 17A was received at PS Kirti Nagar, Delhi, that a quarrel took place at the premises of the Petitioner. Upon inquiry, it was revealed that there was an ongoing dispute between the family members of the Petitioner regarding some construction on the first floor of the premises bearing No. FA-291A, M.S. Garden, Kirti Nagar, Delhi, in respect of which a Local Commissioner was appointed by the civil court in a suit for injunction instituted by the younger son of the Petitioner against Respondents No. 2 & 3. It is stated that as there was an apprehension of breach of peace, proceedings under Sections 107/150 Code of Criminal Procedure were initiated against both the parties and the said proceedings are still going on before the

Executive Magistrate, West District.

3. On 26.1.2011, again a call was received by the police regarding a quarrel at the aforesaid premises. When the SI visited the site, he found out that a quarrel had taken place between several persons and that while the aggressors, who were Mr. Survinder Singh, Mr. Guljeet Singh, sons of Respondent No. 3, and Mr. Navrang Pal, Respondent No. 3 herein, had sustained minor injuries, the other injured persons, namely, Mr. Harjeet Singh, younger son of the Petitioner, and Mr. Nikhil, grand-son-in-law of the Petitioner, had already been shifted to DDU Hospital by the PCR. A report regarding the nature of injuries has however not been received till date. Learned ASC for the State states that the same shall be received within this week.

4. Counsel for the Petitioner states that the Local Commissioner appointed in the suit for injunction has submitted a report dated 24.11.2011, wherein it is recorded that on the date of inspection, possession of the first floor of the premises was with the plaintiff therein, i.e., Mr. Harjeet Singh, younger son of the Petitioner. She hands over a copy of the said report.

5. This fact is disputed by the counsel for Respondents No. 2 & 3, who states that a suit for declaration, cancellation of documents, partition, permanent and mandatory injunction has been filed by his clients against the Petitioner and other members of his family in respect of the aforesaid premises before the learned ADJ, registered as C.S. No. 68/2011, wherein an ex parte injunction was granted, vide order dated 7.2.2011, directing the parties to maintain status quo in respect of the suit property and also restraining Defendants No. 1 & 2 therein, i.e., to the Petitioner and his younger son, Mr. Harjeet Singh, from undertaking any construction activities in the said suit premises till further orders. He also hands over a copy of the aforesaid order.

6. It is clear that the aforesaid dispute revolves around the residential premises, mentioned hereinabove. The parties, who are closely related to each other, are at loggerheads on the issue of ownership and possession of the said premises. Both the parties have invoked civil remedies against each other and the suits are stated to be pending trial.

7. Disputed questions of facts have been raised by both sides in the present case which cannot be gone into in the present proceedings. This Court therefore declines to entertain the present petition, more so when both sides state that they have filed civil suits relating to the property, subject matter of the present petition. However, to avoid any law and order situation, it is agreed that till the next date of hearing fixed before the learned ADJ in C.S. No. 68/2011, i.e., till 8.4.2011, Respondents No. 2 & 3 shall not try to enter the aforesaid premises. Similarly, the Petitioner undertakes that neither he, nor those residing with him at the premises will carry out any construction in the subject property and will maintain status quo with regard thereto till further orders are passed either in the suit filed by them and pending before the trial court or till the order dated

7.2.2011 passed in CS No. 68/2011 is vacated, altered or modified.

8. In view of the clashing claims of both the parties, with regard to the physical possession of the first floor of the suit premises as on date, the SHO of the area is directed to seal the rooms on the first floor and present himself before the learned ADJ on the next date of hearing fixed before her in CS No. 68/2011, i.e., on 8.4.2011 for appropriate orders to be passed by the said Court. Both parties shall bring this order to the notice of the concerned Civil Courts on the next date of hearing.

9. The petition is disposed of.

A copy of this order be given dasti to the learned ASC for the State for compliance.