

(2018) 05 P&H CK 0126

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition No. 42259 Of 2017(O&M)

Veero @ Veer Kaur

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 30-05-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Constitution of India, 1950 — Article 227, 300A

Citation : (2018) 05 P&H CK 0126

Hon'ble Judges : Mahabir Singh Sindhu, J

Bench : Single Bench

Advocate : P.P.S. Duggal, A.S. Dhaliwal, Pardeep Bajaj

Final Decision : Disposed off

Judgement

Mahabir Singh Sindhu , J.

CRM-19549 OF 2018

The instant application has been filed under Section 482 Cr.P.C. for placing on record the copy of the judgment dated 03.02.2017 (Annexure P-10).

For the reasons enumerated in the application, the same is allowed and Annexure P-10 is taken on record subject to all just exceptions. Registry to tag the same at appropriate place.

CRM-M-42259 OF 2017

The present petition has been filed under Section 482 Cr.P.C. read with Article 227 of the Constitution of India for issuance of a direction to the official respondents to save the life of the petitioner being an eighty years old widow while going for agricultural operation over the land measuring about 7 acres situated in village Nizamdin Wala, Tehsil Zira, District Ferozepur as per the jamabandi (P-1) and Khasra Girdawari (P-2).

It has been averred that respondent No.4, who is a local MLA, having evil eyes upon the land in question and thus through his henchmen and the local police trying to usurp the land of the petitioner. This action amounts to deprivation of the right to property of the petitioner and the aforesaid persons are taking the benefit of the petitioner being a widow and old aged lady. The police is not taking any action on the representations submitted by the petitioner; rather siding with respondent No.4 and his henchmen. Thus, it is pleaded that there is a danger to the life and liberty of the petitioner as also to her property at the hands of respondent No.4 and others who are exerting pressure and influence upon the local police. On an earlier occasion also, this Court passed the order dated 09.10.2017 (P-4) and directed the Senior Superintendent of Police, Ferozepur to look into the representation dated 20.08.2017 and to take action as per law, but nothing fruitful has been done.

Respondents No. 1,3 and 7 have filed reply by way of an affidavit of Jaspal Singh, PPS, Deputy Superintendent of Police, Zira, District Ferozepur and inter-alia submitted that the petitioner was married to one Kashmir Singh and after death of said Kashmir Singh, mutation of his inheritance was sanctioned in favour of the petitioner. It is also admitted in the reply that the petitioner is an old lady and she is being maintained by grandson of her brother.

Separate reply on behalf of respondents No. 5 and 6 have been filed in which it has been inter-alia pleaded that the petitioner is the mother of respondent No.5 and paternal aunt of respondent No.6. It is further submitted that respondent No.5 is the biological son of Sukhdev Singh resident of village Mahival, District Kapurthala, but later on, he was adopted by Kashmir Singh (since deceased) and his wife-Smt. Veero @ Veer Kaur-petitioner and thus claiming himself to be the adopted son of the petitioner.

Learned State counsel has not raised any objection in the matter; rather he has gracefully agreed that in case the petitioner moves an application for seeking any police protection for agricultural operation, the same shall be provided accordingly to law.

Heard learned counsel for the parties and perused the paper-book.

There is no dispute that in view of the Jamabandi (P-1) the petitioner is the owner in possession of the land mentioned above and the details of which are as under:

Khewat

Khatauni

48/50

142 (3/16 share)

50/54

145 (311/5084 share)

51/55

149 (1/4 share)

Perusal of Khasra Girdawari (P-2) for the years of 2014 to 2017, shows the cultivating possession of the petitioner. Even the respondents No. 5 and 6 are also not disputing the ownership of the petitioner regarding the land in question.

So far as the claim of respondent No.5, that he is the adopted son of the petitioner, the same is not supported by way of any evidence, much less to say cogent evidence; rather the judgment and decree dated 03.02.2017 (P-10) passed by learned Additional Civil Judge, Senior Division, Zira in a suit for declaration filed by respondent No.5 against the petitioner and her grandson namely, Saranjit Singh speaks otherwise and the findings recorded therein are as under:

"The documents filed by the plaintiff alongwith plaint have been created with malafide intention to grab the property of Kashmir Singh, All the witnesses and documents placed on record by the defendants duly proved on record and it is also proved that plaintiff is not adopted son by Kashmir Singh and defendant No.1."

It is further recorded by learned trial Court as under:

"There is no documentary evidence of the adoption produced by the plaintiff on the Court file. Rather the defendants placed on record various documents which shows that the plaintiff was not adopted by the defendant No.1 and her husband Kashmir Singh."

In view of the above, the claim of respondent No.5 that he is the adopted son of the petitioner is, not proved. Although learned counsel for respondents No. 5 and 6 tried to justify their stand that the judgment and decree dated 03.02.2017 passed by learned Additional Civil Judge, Senior Division, Zira is under challenge in an appeal, but that is of no consequence. Thus as on today, the findings of learned Civil Court are against the respondent No.5 regarding his claim for adoption.

Since, it is duly proved on record that the petitioner is owner in possession of the land in question and respondents No.5 and 6 have no right, title or interest therein and thus, the petitioner has a constitutional right for protection of her life right while undergoing agricultural operation on her land and she cannot be deprived of the same except according to law in view of the provisions of Article 300-A of the Constitution.

Keeping in view the facts and circumstances of the case, this Court deems it appropriate to direct the official respondent No.2 that in case an application is made for protection of life and liberty of the petitioner for agricultural operation regarding the land mentioned above, then the petitioner shall be provided the

suitable protection according to law.

Consequently, the present petition is disposed off and the petitioner will be at liberty to move an application to respondent No.2 and the same shall be considered sympathetically and after examining the same the requisite police protection be provided to her for agricultural operation as per rules.

Disposed off in the above terms.