

Punjab Singh v Surjit Singh etc.

26.12.2022

Present:

Sh. Varun Kumar, Advocate for applicant

Sh. Sahil Thakur, Advocate for respondents

This order shall dispose of an application filed by the applicant under Section 151 read with Section 94(e) CPC for Police help to obey the interim order dated 22.10.2022.

2 Briefly stated facts of the application that the case titled 'Punjab Singh v Surjit Singh and Another' is pending before this Court and this Court vide its order dated 22.10.2022 restrained the respondents from obstructing the applicant to ingress and egress from their fields with tractor or by any other equipment through the land comprised of khewat no. 92, khatoni 135, khasra no. 3096, situated at village Bangarh, Sub Tehsil Basdehra, Mehatpur, District Una, H.P. (hereinafter to be referred as the suit land). It has been averred in the application that exparte order of this Court dated 22.10.2022 has been duly served upon the respondents through process of the Hon'ble Court and despite the stay order the respondents obstructed the applicant to ingress and egress from their fields with tractor and they are openly proclaiming that they do not care for any of the Court. It has also been averred in the application that the respondents are also threatening the applicant with dire consequences and there is apprehension of breach of peace. With these averments, it has been prayed that application be allowed. The application is duly supported with an affidavit.

3. Reply to the application has been filed wherein it is denied that the respondents obstructed the applicant to ingress and egress from their fields and further submitted that there exists no passage over the land of khasra no. 3096 for the applicant and to approach the suit land, the applicant is having separate passage which exists over the other joint land of the parties. The other averments have been denied and dismissal of the application along with cost has been prayed for. Reply is duly supported with an affidavit.

4. Heard. Record perused.

5. It would be apparent from the perusal of the record that order dated 22.10.2022 was passed ex parte and has not been confirmed so far. It was laid down in **K.Ambiyakshi versus V.V.Channar A.I.R 1993 Kerla 62** that an ex-parte order of injunction should not be enforced by granting police help and only a final order should be enforced. Similar is the judgment in **A.S.Bhai versus D.Kutuswami 2006 (2) SLJ 1464** and **Dalel Singh versus Gita Ram 1994(Suppl.)Shimla Law Cases 445**. Therefore, in view of this binding precedent, police help cannot be granted to enforce an ex-parte order. Hence, the present application fails and it is **dismissed**. The present application stands disposed of which after needful be tagged with the main file.

(Geetika Yadav)
Civil Judge, Court No. II
Una, District Una, H.P.

Announced
26.12.2022

C.C.