

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.6465 of 2011(O&M)

Date of decision:15.01.2015

Gagandeep

...Petitioner

Versus

Municipal Council, Nakodar & another

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Ramesh Sharma, Advocate, for the petitioner.

Mr.Tarun Vir Singh Lehal, Advocate, for respondent No.2.

Mr.L.C.Aggarwal, AAG, Punjab, for respondent No.3.

G.S.Sandhawal J.(Oral)

Challenge in the present revision petition is to the impleadment of the petitioner in the proceedings under the Public Premises (Eviction & Rent Recovery) Act, 1973, by the Collector, on an application filed by respondent No.1. The said respondent-Municipal Council, Nakodar filed proceedings for eviction of Rakesh Kumar and Vinod Kumar, from the property, which are four shops, a store and place for five rehri near counter No.1 in the bus-stand, Nakodar. It was alleged that the said respondents were in unauthorised occupation from 01.04.2007 and a sum of ₹7,98,460/- was due.

In the written statement filed by respondent No.2-Vinod Kumar, it was mentioned that Rakesh Kumar, the original licensee had expired in the year 2007. The death certificate shows that he died on 10.03.2007 at Bangalore. Respondent No.2 contested the eviction proceedings on various grounds that he never took the suit property on licence and had never remained in possession of the same.

The application for impleadment was filed by respondent No.1 on

the work of the deceased, Rakesh Kumar. The application was contested by filing reply by the petitioner that he was a stranger and he had no link. The application was, however, allowed vide the impugned order dated 30.05.2011 (Annexure P5).

Counsel for the petitioner submits that the impugned order was not justified. However, counsel for respondent No.2 has placed on record Civil Suit dated 10.03.2007, filed by the present petitioner, as an attorney of both respondent No.1-Rakesh Kumar (deceased) and respondent No.2-Vinod Kumar. In the said suit, permanent injunction was sought against the Municipal Council, Nakodar and the suit was, thereafter, withdrawn on 27.05.2007.

Thus, it is apparent that the petitioner was in possession on the basis of the power of attorney and thus, the application for impleadment was justified for getting possession since he was in occupation of the premises in question. In such circumstances, the order passed by the Collector, to implead him as a party in the petition, cannot be faulted in any manner, as the petitioner is a necessary party to the litigation, for the purpose of securing possession etc.

Accordingly, the present revision petition is without any merit and the same is, consequently, dismissed.

15.01.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE