

223.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.7201 of 2013 (O&M)

Date of decision:30.10.2015

Purshotam Kumar and others

... Petitioners

versus

Municipal Council, Sri Muktsar Sahib, duly constituted under the Punjab Municipal Act, through its Executive Officer, and another.

.... Respondents

& CR Nos.7438 to 7442, 7458, 7459, 7808, 7809 and 7577 of 2013 (O&M)

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. K.B. Raheja, Advocate,
for the petitioners.

Mr. R.S. Rangpuri, Advocate,
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. All the civil revisions are connected and they are disposed of by a common order.

2. The revisions are at the instance of the persons, who are in possession of shops claiming to be purchasers from some private persons, who, in turn, were reported to have purchased the

properties from the District Board. The action for ejectment had been taken by the Municipal Council complaining of the plaintiffs' possession of the shops as constituting unauthorized occupation under the provisions of PP Act. The shop owners have taken an objection regarding the ownership of the Municipal Council and when the proceedings are pending, the Zila Parishad has sought for an impleadment in substitution of the Municipal Council. The court below has observed that instead of substitution, the better course would be to allow for the Zila Parishad to join as a co-petitioner with the Municipal Council, for which course, Municipal Council itself has no objection. The order came to be passed in a situation where the Zila Parishad was relying on the revenue entries showing the Zila Parishad as its owner and in a situation where the allegation was that even apart from the property which was claimed by the Zila Parishad, there are encroachments by the persons who are running shops in portion of the property which belonged to the Municipal Council.

3. It is not in dispute that the Municipal Council as well as the Zila Parishad are public authorities. The issue for consideration in the case would be whether the property is a public property for which action under PP Act would be possible. The learned counsel for the petitioners states making reliance on a judgment of this court in **Kamla Devi and others Versus Surinder Kumar and others-**

2006(3) PLR 371 that if the Zila Parishad has claims to ownership, it may take its own independent action and cannot seek for substitution or impleadment.

4. I reject the argument on the ground that if the property is stated to be not merely the property of Zila Parishad and there are allegations that there are encroachments also to the portions of properties belonging to Municipal Council, it will be difficult to maintain an independent action that can run counter to each other. If amongst the petitioners themselves, there is no conflict of interest and the property is only stated to be a public property, it will be appropriate that both the Municipal Council and the Zila Parishad are joined together in their action instead of one substituting the other. The decision in **Kamla Devi** (supra) will have no application in such a situation, for, it was a case of a person claiming ejectment under the Punjab Rent Restriction Act. Yet another person, who claimed ownership, sought for impleadment and the court stated that such impleadment could not be ordered. This decision is laid on a different legal principle that for proceedings before the Rent Restriction Act, the issue of ownership is irrelevant. It is the jural relationship of the landlord and the tenant that will allow for continuance of proceedings and a person cannot seek for impleadment only on the ground that he is the owner of the property. The PP Act is different, for, there is no need for any jural

relationship of landlord and tenant. The requirement is that the property in dispute is claimed by a public authority and the property is stated to be a public property. Here the issue of ownership or a character of property as public property will assume significance and the proceedings need not necessarily be confined to a party existing relationship of landlord and tenant. The respondent whose ejectment is sought could be an unauthorized person and not necessarily a tenant holding possession beyond a period of lease.

5. The orders passed by the court below are sustained and the civil revisions are dismissed.

(K.KANNAN)
JUDGE

30.10.2015
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