

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

Civil Writ Petition No.15030 of 2013 (O&M)

Date of Decision: 09.04.2015

Vijay Kumar and another

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sherry K. Singla, Advocate for the petitioners.

Mr. Yatinder Sharma, Addl. A.G., Punjab
for respondent Nos.1 to 4.

Mr. Jaspreet Singh, Advocate with
Mr. Raj Pal Singh, Executive Officer, M.C./respondent No.5.

Mr. Ashwani Kumar Chopra, Senior Advocate assisted by
Ms. Rupa Pathania, Advocate for respondent Nos.7 to 29,
35 to 48, 52 to 57, 59 to 62, 64, 66 and 67.

Mr. Tarun Singla, Advocate for respondent No.49 and 51.

JASWANT SINGH, J. (Oral)

CM No.4047 of 2015

Prayer in this application is for placing on record short written statement on behalf of respondent Nos.49 and 51.

Allowed as prayed for. Short written statement on behalf of respondent Nos.49 and 51 is taken on record.

Civil Writ Petition No.15030 of 2013

An Ex-Municipal Counselor of Municipal Council, Maur Mandi, namely, Vijay Kumar and another resident also named Vijay Kumar of Maur mandi, Tehsil Talwandi Sabo, District Bathinda are seeking a direction to the State

Authorities for initiating action against Municipal Council, Maur Mandi/respondent No.5 and acting President/respondent No.6 for not having recovered possession of shops under the occupation of private respondent Nos.7 to 67. It is stated that against the said 62 Shopkeepers i.e. respondent Nos.7 to 67, proceedings under the Punjab Public Premies and Land (Eviction and Rent Recovery) Act, 1973 were initiated and the Collector-cum-S.D.M., Talwandi Sabo/respondent No.4 vide separate orders of even date 24.01.2006 (**P-1**) had ordered their ejection from the said shops, owned by the Municipal Committee, Maur Mandi, Tehsil Talwandi Sabo, District Bathinda.

Upon notice, some of the private respondents have collectively filed their reply. Separate replies have been filed by Municipal Council/respondent No.5 and Acting President/respondent No.6.

On one of the earlier dates of hearing, this Court had summoned the Collector-cum-S.D.M./respondent No.4 to be present in the Court to state the factual position.

On the previous date of hearing, the said Officer appeared and pointed out that no doubt the execution proceedings pursuant to the eviction order dated 24.01.2006 were filed by the Executive Officer of the Municipal Council/respondent No.5. However, subsequently they were withdrawn and as on today, no such execution proceedings seeking execution of the ejection orders are pending before him.

Learned Counsel for the respondents points out that after the ejection orders of the said 62 shopkeepers were passed, the Municipal Council vide Resolution No.10 dated 08.08.2008 had taken a decision to renew their lease deeds on fresh terms and conditions. It transpires that same was perhaps motivated by the factum of their long occupancy on the said premises and also

pursuant to the liberty granted in the eviction order. The said Resolution (P-2) was stayed vide order dated 27.08.2008 (P-3) by the Regional Deputy Director, Local Government Bathinda, however, in the light of the Municipal Council facing financial difficulty and the need to realize rental income from the shopkeepers, the stay of the resolution was vacated/withdrawn vide order dated 26.08.2010 (R-1). The said withdrawal was subject to the Municipal Council ensuring that there shall be an increase in the rent after three years as per instructions of the Government.

Learned Counsel for the respondents state that in terms of the Government Instructions and the decision taken by the Municipal Council, fresh lease deeds have been executed on fresh terms and conditions and the said shopkeepers are in lawful possession of the said shops. It is further conveyed that the lease deeds are in consonance with the spirit of the instructions issued by the Government regarding rate of rents and periodical increases. Thus, this writ petition has become infructuous requiring no further adjudication.

Keeping in view the aforesaid factual matrix, it is apparent that the present writ petition has become infructuous. However, if the petitioners have any grievance regarding the rate at which these premises have been let out, they would be free to seek their remedy in accordance with law.

April 09, 2015
Gagan

(JASWANT SINGH)
JUDGE