

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

- (1.)

CWP No.13837 of 2015
Date of Decision:- 29.09.2015.

Baljeet Singh and others

Versus

.....Petitioners

State of Haryana and others

.....Respondents
- (2.)

CWP No.14486 of 2015

Anil Kumar

Versus

.....Petitioner

State of Haryana and others

.....Respondents
- (3.)

CWP No.16153 of 2015

Sudhir and others

Versus

.....Petitioners

State of Haryana and others

.....Respondents
- (4.)

CWP No.18481 of 2015

Pawan Kumar and others

Versus

.....Petitioners

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. Vikram Singh, Advocate for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

Mr. Karan Singh, Advocate for respondent No.3.

SURYA KANT, J. (ORAL)

1.) This order shall dispose of CWP Nos.13837, 14486, 16153 and 18481 of 2015. The common point involved in these cases pertains to the eviction of petitioner-shopkeepers from the shops owned by Gram Panchayat of village Matak Majri, Tehsil Indri, District Karnal.

2.) The facts are broadly not in dispute. The Gram Panchayat carved out plots measuring 18' x 11' feet which were leased out to the petitioners where they constructed their respective shops.

3.) Subsequently, the petitioners raised unauthorized construction extending the size of their respective shops to approximately 11' x 30' feet. The 'unauthorized construction' as well as 'non-payment of lease money' prompted the Gram Panchayat to initiate action against petitioners under Section 2 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery)

Act, 1972.

4.) Eviction orders were passed. The appeals preferred by the petitioners have also been dismissed.

5.) When the matter challenging the eviction orders came up for hearing on 7.09.2015, it was urged that since the Gram Panchayat in any case will lease out the shops in question and the petitioners for whom these shops are the only source of livelihood, are willing to enter into fresh lease agreements on such terms and conditions including the revised rent as may be approved by the Deputy Commissioner, Karnal, that such a possibility was decided to be explored.

6.) The Deputy Commissioner, Karnal was thus directed to constitute a Committee of Officers to assess the estimated market rent of the shops w.e.f. the year 2001 onwards for every slab of three years and then to determine the current monthly rent. The petitioners agreed to pay the revised rent amount as well as the arrears from 2001 onwards.

6.) In deference thereto, the Deputy Commissioner, Karnal has filed the status report dated 21.9.2015 along with Annexure R-1 whereby the current monthly rent of each shop occupied by the petitioners has been assessed, besides the arrears payable by them on periodical revision of the lease amount w.e.f. 1.1.2001. The petitioners also gave their consent to such revision before the Deputy Commissioner, Karnal and it is so mentioned in the status report.

7.) In view of the above stated report, learned counsel for the Gram Panchayat was asked to have instructions. He submits that the petitioners may be asked to enter into fresh lease agreements for the original area of the shops i.e. 18 x 11 feet at the current monthly rent as assessed by the Deputy Commissioner, subject to further revision of the lease amount after a specified period. He has further pointed out that while ordering the eviction of petitioners, the Collector imposed penalty on them and those orders have attained finality. According to him, if the petitioners are asked to pay the penalty amount, the same shall be much more than the arrears of rent payable by them as per the Deputy Commissioner, Karnal's order.

8.) Learned counsel for the petitioners, on the other hand, submits that since the size of the shops was increased by the petitioners at their expenses and the Deputy Commissioner has assessed the monthly rent per square feet and has also measured the increased area, no prejudice shall be caused if the petitioners are allowed to have the lease for the entire constructed area of shops at a higher monthly rent.

9.) Having given our thoughtful consideration to the rival submissions, the methodology adopted by the Deputy Commissioner in assessing the 'current monthly rent' of the subject-shops appears to be fair, just and as per prevailing market conditions. Similarly, the size of the shops increased on the rear side *per se* causes no

obstruction in the public passage or otherwise. Rather, the increased part, if excluded will be of no use to the Gram Panchayat.

10.) There is, however, merit in the contention of its learned counsel that if the penalty amount imposed on the petitioners by the Collector is more than the arrears assessed w.e.f. 1.1.2001, no loss should be caused to the Gram Panchayat. He is right in further contending that there should be a provision for periodical revision of monthly rent. We, thus, in the light of the above discussion, allow these writ petitions in part and modify the impugned orders subject to the following conditions:-

- (i) The petitioners shall firstly pay the penalty amount imposed on them by the Collector or in lieu thereof the arrears of lease amount as assessed by the Deputy Commissioner w.e.f. 1.1.2001, whichever is higher.
- (ii) The aforesaid amount shall be paid by the petitioners in three equal installments within a period of eight months. No sooner the first installment of penalty/or arrears is paid; fresh lease agreement may be executed. The petitioners shall also pay security amount rent of three months' advance.
- (iii) The fresh lease agreements between the petitioners and Gram Panchayat shall be entered into under the supervision of the Deputy Commissioner, Karnal and at a monthly rent, not less than what has been asserted

vide Annexure R-1.

(iv) Further, there shall be a mandatory clause in the lease agreement for 10% increase of monthly rent after every two years.

11.) The petitioners shall give an undertaking that no further unauthorized construction shall be raised by them on the Gram Panchayat land.

12.) The petitioners shall be required to pay the monthly rent by 7th day of the calendar month. In the event of any delay, the Gram Panchayat shall be entitled to levy 12% interest on such arrears of rent.

13.) **Dasti.**

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

September 29, 2015.

sandeep sethi