

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

CWP No.15701 of 2014

Date of decision:20.7.2015

Mahabir Singh Yadav

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

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. Pankaj Jain, Advocate for the petitioner.

Mr. Vinod S. Bhardwaj, Additional Advocate General,
Punjab for respondent No.1.

Mr. Deepak Sabharwal, Advocate for the respondent
No.2.

HEMANT GUPTA, J.(Oral)

The petitioner has approached this Court for issuance of a writ of mandamus to transfer leasehold rights purchased by the petitioner vide sale agreement dated 30.09.2013 in his favour.

The land measuring 3 Kanals was leased to M/s Agro Vets Industries, Hoshiarpur (here-in-after referred as borrower) for a period of 30 years on yearly lease of Rs.1875/-. The said land was mortgaged by borrower in favour of Punjab Financial Corporation for availing financial assistance the purposes of building and machinery. Since the borrower failed to pay the due amount to the Punjab Financial Corporation, its possession was taken by Punjab Financial

Corporation in the year 2003 in terms of Section 29 of the State Financial Corporation Act, 1951. The property was put to auction in the year 2013 in favour of the present petitioner and a No Due Certificate was issued to the present petitioner on 04.12.2013 (Annexure P-6). The Punjab Financial Corporation also communicated to Sub Divisional Engineer, State Electricity Board, conveying its no objection for release of power connection to the petitioner. The Punjab Financial Corporation has also written to District Development and Panchayat Officer (respondent No.3) for transfer of the leasehold rights in the name of the petitioner to enable him to get the power connection and other facilities to run the unit. But still, the leasehold rights were not transferred in favour of the petitioner, when the petitioner invoked the jurisdiction of this Court.

It was on 17.10.2014 (Annexure R-1), Additional Deputy Commissioner communicated to the petitioner that the lease can be transferred if the petitioner pays the previous arrears of rent of the land without interest and to take the land on fresh lease.

We find that the action of the Additional Deputy Commissioner demanding arrears of lease as a pre-condition of transfer and also to seek execution of the fresh lease is contrary to the lease deed executed on 29.07.1999. The lease is for a period of 30 years and such leasehold rights were mortgaged in favour of the Punjab Financial Corporation. Such leasehold rights have been put to auction by Punjab Financial Corporation and purchased by the petitioner. Therefore, it is not a case of fresh lease but only a

substitution of a lessee in terms of the mortgage deed executed by the borrower.

We find that the action of the Additional Deputy Commissioner declining the transfer that too after more than 10 months of the request of transfer is unfair, unjust and hence caused manifest injustice to the petitioner.

Though, Mr. Bhardwaj, was candid enough to say that the lease would be transferred and the arrears of lease money recovered from the purchaser in accordance with law but the fact remains that for almost two years after purchase, the petitioner has been made to run from pillar to post for transfer of leasehold rights which was his legitimate right.

Consequently, the present writ petition is allowed. The respondents are directed to transfer leasehold rights in favour of the petitioner forthwith subject to right of the owner to recover lease money in accordance with law.

(HEMANT GUPTA)
JUDGE

JULY 20, 2015
‘D. Gulati’

(LISA GILL)
JUDGE