

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

CWP No.19479 of 2014

Date of Decision:-20.07.2015

Punjab Information & Communication Technology Corpn.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Ms. Kanwal S. Walia, Advocate for the Petitioner.

Mr. Suresh Singla, Additional Advocate General, Punjab
for respondent nos.1 & 2.

Mr. R.D. Bawa, Advocate for respondent no.3.

JASWANT SINGH, J.(ORAL)

Prayer in the present petition is for quashing of the order dated 08.7.2014 (P-4) passed by respondent no.2 whereby the proceedings under the Public Premises Act has been adjourned *sin-a-die* as well as the order dated 15.07.2014 (P-5) against passed by the respondent no.2 whereby the review application has also been dismissed.

Learned Counsel for the petitioner has argued that the petitioner Corporation is the owner of the premises situated at SAS Nagar, Mohali and the same was auctioned on 20.04.2010. After the said auction, the allotment of the demised premises was made in favour of respondent no.3 who was subsequently handed over the possession. However,

respondent no.3 Dilbagh Singh failed to make the instalments of some amount, therefore, the cancellation notice was issued by the petitioner-corporation to respondent no.3 on 07.12.2012. Subsequently, the respondent no.3 filed a CWP No.2604/2012 wherein this Court had granted an opportunity to respondent no.3 to pay the due amount with an opportunity to the petitioner-corporation to sell the premises vide order dated 07.1.2013 (**P-2 Colly**). Ultimately, the writ petition no.2604 of 2012 was also dismissed on 19.07.2013 because of the failure on part of respondent no.3 to pay the amount as per the directions of the Court.

Consequently the petitioner-corporation issued a 30 days notice on 05.08.2013 to respondent no.3 under the Public Premises Act for vacation of the premises in question. Since, the respondent no.3 did not vacate the premises, the petitioner-corporation filed an application under Sections 5 & 6 of the 1973 Act on 03.12.2013. In the meantime it emanates from the record that the respondent no.3 had let out the premises to a tenant namely Kulwinder Singh, who filed a civil suit for permanent injunction whereby the Status quo was granted in the said civil suit. It is relevant to mention here that prayer of the tenant in the said civil suit was to the effect that he should not be dispossessed except in due course of law. However, on 08.07.2014 respondent no.2-Assistant Collector, Ist Grade-cum-SDM, SAS Nagar, Mohali, who adjourned the proceedings under the 1973 Act *sin-a-die* on the basis of the status quo order passed by Civil Court. Two days thereafter, the petitioner corporation moved an application dated 10.07.2014 before the Assistant Collector, Ist Grade, SAS Nagar, Mohali for reviewing the order of “*sin-a-die*”. However, the said application was also dismissed on 15.07.2014. Thus the present petition has been filed.

On the strength of the facts narrated herein above, learned Counsel for the petitioner-corporation has argued that since there is no dispute regarding the property being a public premises and also there is no dispute regarding the fact that allotment made in favour of respondent no.3 has been cancelled due to non payment of remaining consideration, the respondent no.2 had committed grave illegality by adjourning the matter *sin-a-die*. Although Kulwinder Singh alleged tenant has no right over the premises in question.

On the other hand respondent no.3 has argued that although the writ petition filed by the respondent no.3 has been dismissed and he does not have any right to retain the property still, the petitioner-corporation should be directed to refund the money which he has paid to them.

After hearing learned Counsel for the parties and perusing the paper book, this Court is of the considered view that the present petition deserves to be allowed for the following reasons:-

Firstly, that there is no dispute that the proceedings initiated by the petitioner-Corporation under Sections 5 & 7 of the Act, 1973 are valid because the property in question comes under the definition of Public Premises Act.

Secondly, the dispute as to whether the amount paid by respondent no.3 should be returned back by the petitioner-corporation is a separate remedy for which respondent no.3 has a separate cause of action and, therefore, the said plea cannot be raised by the respondent no.3 in the present petition.

Finally it is apparent from the record that the suit filed by Kulwinder Singh (alleged tenant) was for permanent injunction whereby he

claimed that he should not be dispossessed otherwise in due course of law.

The procedure being followed by the petitioner-corporation is a due process of law and Kulwinder Singh (alleged tenant) cannot have a better right, title or interest than respondent no.3 who was the original allottee, therefore, the orders passed by the respondent no.2 dated 08.07.2014 (**P-4**) and 15.07.2014 (**P-5**) cannot be sustained in the eyes of law.

In view of the above, present petition is allowed and the orders dated 08.07.2014 (**P-4**) and 15.07.2014 (**P-5**) are set aside and consequently, the respondent no.2 is directed to decide the petition by following due process of law.

(JASWANT SINGH)
JUDGE

July 20, 2015
Vinay