

CWP No.18906 of 2015

[1]

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

**CWP No.18906 of 2015
Date of decision:09.09.2015**

Jagrup Singh

...Petitioner

Versus

Joint Development Commissioner (IRD), Punjab and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Amit Aggarwal, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 15.10.2012 passed by respondent No.2 and the order dated 29.01.2015 passed by respondent No.1 on an application filed by respondent No.3 under Section 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as the "Act") for seeking eviction of the petitioner from the land measuring 6 Kanal 00 Marla, comprised in Khewat No.196, Khatauni No.538, Khasra No.453/2, situated in village Nandgarh, Tehsil and District Bathinda.

In short, the application filed by respondent No.3 was allowed initially by the District Development & Panchayat Officer-cum-Collector, Bathinda on 21.01.2009 inadvertently under Section 7 of the Punjab Village

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Common Lands (Regulation) Act, 1961. However, the said order was reversed by respondent No.1 on 20.09.2011 and the matter was remitted back to the District Development and Panchayat Officer-cum-Collector to pass a fresh order, in accordance with law. Thereafter, the District Development and Panchayat Officer-cum-Collector passed the order on 15.10.2012 under Section 7 of the Act and ordered eviction of the petitioner and also for recovery of compensation for user of the land, as per the rates prevailing from time to time. The petitioner challenged that order by filing appeal No.8 of 2013, which has also been dismissed on the ground that respondent No.3 is the owner of the land in dispute and the petitioner is in unauthorized possession.

The only argument raised by counsel for the petitioner in this case is that the eviction order could not have been passed on an application filed under Section 7 of the Act as the remedy of eviction lies under Sections 4 and 5 of the Act.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that there is no doubt that eviction of a person in unauthorized possession of a public premise is provided under Section 5 of the Act and Section 7 of the Act is only for recovery of damages as arrears of land revenue in respect of the public premises, however, it cannot be ignored that the application filed by respondent No.3 was not for the recovery of arrears of compensation/damages but for eviction of the petitioner from the land in question, therefore, it appears to be only an error of mentioning the

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provisions of the Act as Section 7, for seeking ejectment of the petitioner under Section 5 of the Act.

Thus, keeping in view the fact that the petitioner has been found to be in unauthorized possession over the public premises, I do not find any merit in the present petition in order to interfere only on the ground that while filing the application for eviction of the petitioner, the provisions under Section 7 has been invoked instead of Section 5 of the Act, which might have been mentioned due to inadvertence on the part of respondent No.3.

Consequently, the present petition is dismissed, though without any order as to costs.

September 09, 2015
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(Rakesh Kumar Jain)
Judge