

C.W.P. No. 20376 of 2014 (O&M)

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In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 20376 of 2014 (O&M)

Date of Decision: January 27, 2015

Inderjit Singh

... Petitioner

Versus

Municipal Corporation, Amritsar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. B.D. Sharma, Advocate,
for the petitioner.

Mr. H.S. Sethi, Advocate,
for Mr. M.C. Berry, Advocate,
for respondent No.1.

Dr. Deepa Singh, Addl. A.G., Punjab.

Paramjeet Singh, J.

CM-453-CWP of 2015

Civil Misc. application is allowed subject to all just exceptions. Corrected copy of impugned order dated 11.02.2014 (Annexure P/3) is taken on record.

CWP No. 20376 of 2014 (O&M)

Instant writ petition has been filed under Articles 226/227 of

the Constitution of India for issuance of a writ in the nature of certiorari for quashing order dated 16.09.2014 (Annexure P/7) passed by respondent no.2 - Deputy Commissioner, Amritsar, exercising the powers of Commissioner under Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as the "PP Act") and order dated 11.02.2014 (Annexure P/3) passed by respondent no.3-Deputy Director, Urban Local Bodies, Amritsar, exercising the powers of Collector under the PP Act.

Brief facts of the case are that Malwinder Singh, father of the petitioner, was tenant/licensee of plot no.2, Opposite Power House, Amritsar, which is the public property being managed by the Municipal Corporation, Amritsar. Malwinder Singh had agreed to pay rent/licence fee as per the instructions of the Punjab Government as applicable from time to time and the same was required to be paid on monthly basis. It is alleged that rent/licence fee worth Rs.2,47,826/- upto 30.09.2013 has not been paid. Municipal Corporation, Amritsar filed an application for eviction under Sections 5 and 7 of the PP Act against Malwinder Singh, father of the petitioner as well as against M/s Jaspal Dhaba and Smt. Darshan Rani. Malwinder Singh is stated to have died on 17.11.1999. In the aforesaid petition, the petitioner filed application for impleading himself in place of deceased – Malwinder Singh. Said application for impleading party has not been decided by the Deputy Director, exercising

the powers of Collector, however, passed the impugned order dated 11.02.2014 (Corrected Annexure P/3). Against that, petitioner and others preferred an appeal which has been dismissed by the Deputy Commissioner, exercising the powers of Commissioner vide order dated 16.09.2014 (Annexure P/7). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that petition under the provisions of PP Act has been filed against a dead person i.e. Malwinder Singh. As such, any order against a dead person is nullity. Thus, petition for eviction is not maintainable against a dead person. Learned counsel further contends that instant petition has been filed by the petitioner, legal heir of deceased Malwinder Singh. Even the application for impleading as LR of Malwinder Singh was filed before Collector, but it was not decided.

At the time of argument, photocopy of the record of Municipal Corporation has been shown to this Court. As per record, name of the tenant /licensee of plot no.2, Opposite Power House, Amritsar is Manwinder Singh instead of Malwinder Singh.

This fact has been admitted by the learned counsel for the parties and there is no dispute that the application for eviction has been filed against a dead person i.e. Malwinder Singh, father of the petitioner.

So, any order passed against a dead person is nullity.

In view of this, instant writ petition is allowed. Impugned orders dated 11.02.2014 (Annexure P/3) and 16.09.2014 (Annexure P/7) are set aside. However, Municipal Corporation, Amritsar will be at liberty to proceed afresh against the legal heirs of deceased Malwinder Singh and others in accordance with law.

January 27, 2015
vkd

[Paramjeet Singh]
Judge