

CWP No.20391 of 2014

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

CWP No.20391 of 2014 (O&M)

Date of decision: 23.04.2015

Mohinder Pal Singh

....Petitioner

Versus

Municipal Corporation, Amritsar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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. Vivek Salathia, Advocate, for the petitioner.
Mr. Harsimran Singh Sethi, Advocate, for the M.C., Amritsar.
Mr. K.S. Sidhu, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

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 12.01.2014 (Annexure P-4) passed by respondent No. - 3 Deputy Director, Urban Local Bodies, Amritsar, exercising the powers of Collector under Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as "the PP Act") and order dated 16.09.2014 (Annexure P-9) passed by respondent no.2- Deputy Commissioner, Amritsar, exercising the powers of Commissioner under the PP Act.

Brief facts of the case are that Municipal Corporation,

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Amritsar filed an application for eviction of the petitioner alleging him to be in unauthorized possession of the public property as defined under the provisions of the PP Act. Deputy Director, Urban Local Bodies, Amritsar, exercising the powers of Collector under the PP Act, after appreciation of evidence on record, allowed the application moved by Municipal Corporation vide order dated 12.01.2014 (Annexure P-4) and petitioner was directed to hand over the vacant possession of the property in dispute to the Corporation within 30 days. Aggrieved against the order passed by Collector, petitioner preferred an appeal before the Deputy Commissioner, Amritsar, exercising the powers of Commissioner under the PP Act, which has been dismissed vide order dated 16.09.2014 (Annexure P-9) and order passed by Collector has been upheld. Hence, this writ petition.

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

Learned counsel for the petitioner vehemently contended that there is complete violation of Rule 5 of the Rules framed under the PP Act and the grounds taken in the application for eviction have not been supported by any document. The orders passed by authorities below are not sustainable in eyes of law, therefore, are liable to be quashed.

On the other hand, learned counsel for the Municipal Corporation contends that there is sufficient evidence on record. Besides, photographs have also been placed on record that a liquor vend

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is being run by other persons, which is in violation of terms as petitioner was the original allottee.

I have considered the contentions raised by learned counsel for the parties.

Categorical finding has been recorded by authorities below to the effect that petitioner was licensee and he has further handed over the possession to others and made additions and alterations without permission of the Municipal Corporation, which is clearly visible from the photographs on record. In violation of the terms, a liquor vend is being run in the shop in question by the persons, who are in unauthorized possession of the said shop.

Collector has recorded the following findings: -

“I have heard the submission made by the Ld. Counsels for both the parties and have gone through the record. The case against the respondents stands fully proved. The counsel for Municipal Corporation, Amritsar argued that notices dated 23-10-2013 were served to the respondents. Material unauthorized additions and alterations have been made in shop there by changing the structure of the public premises without the permission rendering the respondents liable for eviction from the shop. No allotment favouring respondents No.2& 3 since has been made in place of original occupier Sh. Mohinder Pal Singh as alleged. The orders of competent authority are must for change of name of tenancy in respect of any public premises of the applicant/petitioner. There are no orders regarding change of tenancy favouring respondent no.2 and 3. Moreover, the photograph and notice dated 23.10.2013

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clearly proves that respondent no.2 & 3 are unauthorized occupant of the premises in question.”

Findings recorded by Collector have been affirmed by Commissioner. In view of concurrent findings of fact recorded by authorities below no ground for interference is made out.

Dismissed.

(Paramjeet Singh)
Judge

April 23, 2015
R.S.