

IN THE PUNJAB & HARYANA HIGH COURT
AT CHANDIGARH

CWP No.25864 of 2014

Date of Decision: 19.02.2015

Welfab India Ltd.

...Petitioner

Versus

Punjab Small Industries & Export Corporation Ltd. & others ...Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

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

HEMANT GUPTA, J. (ORAL)

Challenge in the present petition is to the order of resumption dated 14.12.1998 (Annexure P-4); order dated 14.02.2003 (Annexure P-6) passed by the Collector under the Punjab Public Premises & Land (Eviction & Rent Recovery) Act, 1973; order dated 18.08.2005 (Annexure P-10) dismissing the review application for review of the order dated 14.02.2003 and order dated 06.12.2007 (Annexure P-11) passed by the Deputy Commissioner-cum-Commissioner, Tarn Taran, in an appeal against the order of eviction. The petitioner has also challenged an order dated 14.10.2014 (Annexure P-17) declining the objections filed by the petitioner in the eviction proceedings.

It may be noticed that earlier the petitioner filed a writ petition bearing CWP No.5845 of 2008, which was dismissed by this Court on 12.03.2010 with liberty to the petitioner to approach the Court by duly constituted Board resolution. The order dated 12.03.2010 reads as under:

“1. The preliminary objection is that the petition had been filed at the instance of the person who did not have valid authority to

institute the writ petition and that there was no valid resolution for instituting the case. There had been a direction issued by this Court vide order dated 15.01.2010 for filing copy of the Board resolution in proof of the authorization for filing the case. The petitioner had not been able to file the proof. The writ petition is dismissed for the present with liberty to approach the Court by duly constituted Board resolution.”

After the aforesaid writ petition was filed, it is the Collector, who passed the impugned order on an objections filed by the petitioner, which is again challenged by the petitioner by way of present writ petition. When the writ petition came up for motion hearing before this Court on 17.12.2014, the following order was passed:

“Earlier, the writ petition filed by the petitioner was dismissed for the reason that the petitioner has not been able to produce the resolution in proof of the authorization for filing of the case.

In the present writ petition, the resolution was not attached with the writ petition, but a copy of the same has been handed over during the course of hearing.

A perusal of the said resolution creates serious doubt about the genuineness of the interest of the petitioner-company in the property in question. Therefore, we direct the petitioner at the first instance to produce its balance sheet for the financial year 1997-98 and also the balance sheet for the last 3 years. The petitioner is also directed to produce its original minutes book for perusal of the Court.

List on 07.01.2015.”

Today, learned counsel for the petitioner states that the petitioner is unable to produce any of the documents sought for vide order dated 17.12.2014.

A purported resolution of the petitioner signed by one G.S.Arora, as Director of the Company, giving Ref. No.123 of 2014 has been produced. All proceedings before the Collector and Commissioner

were defended by Malkiat Singh son of Mohan Singh. The Company has not produced any of the documents sought to examine the bona-fide of the petitioner company in disputing the order of eviction. We find that the Company, an incorporated entity, is not the one, who is disputing the order of eviction, but it is Malkiat Singh son of Mohan Singh, who is in possession, is disputing the order of eviction. Since the company, as an allottee, is not proved to be disputing the order of eviction, we find that the present proxy writ petition filed by Malkiat Singh does not warrant any interference by this Court.

Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

19.02.2015
Vimal

(HARI PAL VERMA)
JUDGE