

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

CWP No.3766 of 2015

Date of Decision:-02.03.2015

Rajnish Kumar Sachdeva.

.....Petitioner.

Versus

Municipal Corporation, Sector 17, U.T., Chandigarh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. PKS Gill, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Challenge in the present writ petition is to the order dated 27.8.2004 (P-3) passed by Additional Commissioner, Municipal Corporation, U.T., Chandigarh whereby the tenancy of shop no.4, village Badheri, U.T., Chandigarh has been cancelled and the security deposited by the lessee i.e. the petitioner ordered to be forfeited and consequently, proceedings were directed to be initiated against the petitioner under the Public Premises Eviction of Unauthorised Occupants Act 1971, being an unauthorised occupant; further challenge is to the order dated 26.12.2014 (P-13) passed by the Commissioner, Municipal Corporation, Chandigarh dismissing the appeal of the petitioner against order dated 27.8.2004 (P-3).

In brief facts of the case are that vide lease deed dated 24.08.1995 (P-1) the premises in question was taken on rent by petitioner from Gram Panchayat, Badheri, which subsequently merged in the Municipal Corporation, Chandigarh. In 2004, the Municipal Corporation,

Chandigarh started the process of issuing notices to the defaulting tenants, who were in arrears of rent, which also included the petitioner who was served with notice dated 29.07.2004 (P-2). Subsequent to the said notice, the petitioner appeared before the Additional Commissioner-respondent no.3 who vide order dated 27.08.2004 (P-3) passed the impugned order and cancelled the tenancy of the petitioner. Thereafter, nothing was done by the petitioner against the said order till 2011 wherein the petitioner preferred an appeal to the Commissioner, Municipal Corporation, Chandigarh, who dismissed the appeal on two grounds (i) Limitation; & (ii) maintainability on the ground that no appeal is maintainable against the order of Additional Commissioner, Municipal Corporation, Chandigarh.

Learned Counsel for the petitioner has vehemently argued that the learned Commissioner had failed to consider the fact that the appeal has been filed in the shape of representation for getting specific terms and thus, there is no law of limitation applicable for getting specific directions issued from Commissioner for continuation of the lease deed, especially when similarly situated defaulting tenants were allowed to continue after execution of fresh lease deeds by Commissioner in appeals filed by those defaulting tenants. Ultimately it was prayed that the petitioner is ready to abide by all or any of the conditions which might be imposed by the respondent Municipal Corporation, Chandigarh.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

In the present case, it is not in dispute that that after the passing of the order dated 27.8.2004 (P-3), no action was taken by the petitioner

immediately and it was after a period of 7 years that appeal was filed by the petitioner to the Commissioner, Municipal Corporation, Chandigarh, which was rightly dismissed on the ground of maintainability as well as delay. It is settled position of law that delay defeats equity and in the present case, the petitioner has lost faith of this Court for granting him relief on equity because he has kept mum for 7 years and has not approached the Court within a reasonable time. Further, it is not in dispute that the proceedings under the Public Premises Act, 1971 are already in process before the concerned authorities and the petitioner has been able to thwart them in one way or the other for the last 11 years.

As far as the argument of petitioner seeking parity with other tenants is concerned, this Court is of the opinion that the Commissioner had exercised its discretion with those tenants who had approached him in the year 2004 whereas the petitioner has approached the Commissioner after 7 years. Further, if an order is passed under the garb of appeal by Commissioner, which admittedly is not maintainable, then such previous wrong orders cannot be a ground for seeking parity by the petitioner.

In such facts and circumstances, when the petitioner has not been able to satisfactorily explain the inordinate delay in pursuing his remedy, this Court does not find any illegality or infirmity in the orders passed by the Courts below.

In view of the above, finding no merit in the present petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 02, 2015
Vinay