

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

**1.**

**LPA No. 1237-2014 (O&M)**

**Date of Decision:01.10.2015**

**Hardev Singh**

**....Appellant**

**VERSUS**

**Commissioner, Jalandhar Division, Jalandhar and others**

**....Respondents**

**2.**

**LPA No.1238-2014 (O&M)**

**Dalbir Singh and others**

**....Appellants**

**VERSUS**

**Commissioner, Jalandhar Division, Jalandhar and others**

**....Respondents**

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL**

**HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN**

**Present:** Mr. R.D Bawa,Advocate, for the appellant(s).

Mr. Vinod S. Bhardwaj, Addl. A.G., Punjab,  
for respondents No. 1 & 2.

Mr. D.S Pheruman, Advocate, for respondent No.3.

**\*\*\***

**MAHAVIR S. CHAUHAN, J.**

This order being passed in LPA No. 1237-2014 titled 'Hardev Singh Vs. Commissioner, Jalandhar Division, Jalandhar and others' shall dispose of, in addition to it, Letters Patent Appeal No.1238-2014 titled 'Dalbir Singh and others Vs. Commissioner, Jalandhar Division, Jalandhar and others' also as both these appeals involve common questions of fact

and law and have arisen from a common order dated 08.07.2014, whereby the learned Single Judge has dismissed civil writ petitions brought by the appellants to challenge order dated 30.11.2011 (Annexure P-5) whereby Deputy Commissioner, Gurdaspur, exercising the powers of Collector, under Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 (hereinafter referred to as "the Act") has ordered eviction of the appellants and order dated 19.02.2014 (Annexure P-7) whereby Commissioner, Jalandhar Division, Jalandhar has dismissed the appeal brought by the appellants. The facts for the sake of convenience are being taken from LPA No. 1237 of 2014.

Stated in brief, facts and circumstances of the case culminating into the instant appeals indicate that the appellants entered possession of the land belonging to Gurdwara Janam Asthan Baba Ram Thaman, Village Khojala, Tehsil Batala, District Gurdaspur, (for short referred as "property in dispute") by way of a lease deed dated 13.09.1988 (Annexure P-1) for a period of three years. However, on expiry of lease period, instead of surrendering possession of the property in dispute to respondent No.3, the appellants filed a civil suit before Civil Judge (Junior Division), Batala praying for perpetual proprietary injunction restraining the said respondents from dispossessing them illegally and forcibly from the property in dispute. In those proceedings, a statement was suffered on behalf of respondent No.

3, admitting possession of the appellants over the suit property as tenants

and undertaking not to dispossess them except in due process of law.

The third respondent then initiated proceedings for ejectment of the appellants under the provisions of the Act wherein vide order dated 30.11.2011, Deputy Commissioner, Gurdaspur, exercising the powers of Collector, ordered eviction of the appellants. Order of the Deputy Commissioner was upheld in appeal by Commissioner, Jalandhar Division, Jalandhar, vide order dated 19.02.2014.

As aforesaid, to challenge order dated 30.11.2011 and 19.02.2014, the appellants preferred Civil Writ Petition No. 12553-2014 and 12600-2014, which have been dismissed by the learned Single Judge in limine, vide order dated 08.07.2014.

We have heard learned counsel for the parties, besides examining the record available on the file.

The only argument advanced on behalf of the appellants is that by making a statement on 20.12.1997 before the learned Civil Court, respondent No. 3 had admitted the appellants to be tenants in respect of the property in dispute and, as such, findings of the revenue authorities, under the Act, that the appellants are in unauthorized possession of the said property are unsustainable but the learned Single Judge has failed to take this aspect of the matter into account.

The contention, however, has failed to convince us. The learned

Single Judge has dismissed the writ petitions brought by the appellants by

observing as under:-

*“Admittedly separate record-of-right has been maintained in the name of Gurdwara Janam Asthan Baba Ram Thaman and the same falls within the revenue estate of village Khojala. In view of the definition of religious institutions, respondent No.3 falls within the definition of Section 2(d) being a religious institution. Once the property is in the name of religious institution then it also falls within the definition of religious premises as defined under Section 2(e). Petitioners have accepted the ownership of Gurdwara Janam Asthan Baba Ram Thaman and the property was leased out to them under the signatures of its president. It is also clear that lease deed was for three years commencing from the date of execution i.e. 13.09.1988 meaning thereby that it was upto 12.09.1991 and thereafter there is no document on record extending the lease further. Definition under Section 3(a) clearly states that unauthorized occupant of religious premises means, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant and Section 3(b) specifies that where being an allottee, lessee or grantee by reasons of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, shall be ceased to hold the same and then it will be deemed as unauthorized. Explanation attached to Section 3 explains that for the purpose of clause (a), a person shall not merely by reason of the fact that he has paid, any rent be deemed to have entered into possession as allottee, lessee or grantee.*

*In view of above, it is held that petitioners have entered as lessees and thereafter the lease deed stands determined. On determination of lease deed their possession is treated as unauthorized possession in view of Section 3 of the Act and the provisions of the Act will apply. As such petitioners have rightly been ordered to be evicted vide impugned orders.”*

It is not in dispute that the appellants entered possession of the property in dispute by virtue of a lease deed dated 13.09.1988 (Annexure P-1) for a period of three years which expired on 12.09.1991 and the period of lease was not extended thereafter. It is also not in dispute that the property in dispute belongs to respondent No.3, a religious institution and is

a religious property within the meaning of Section 2(e) of the Act. It would be relevant to refer to provisions of Clause (a) and (b) of Section 3 of the Act, according to which, a person shall be deemed to be in unauthorized occupation of any religious premises (a) where he is whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or (b) where he being an allottee, lessee or grantee as common by reasons of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such religious premises. It would stand repetition that appellants entered possession of the property in dispute under the lease deed dated 13.09.1988 and in terms of the said lease deed, currency of the lease period came to an end or say the lease was determined on 12.09.1991. As such, possession of the appellants over the property in dispute after 12.09.1991 became unauthorized.

The statement dated 20.12.1997 (Annexure P-2) has only admitted possession of the appellants over the property in dispute as tenants under the lease deed and the undertaking given was only to the effect that eviction of the appellants would not be resorted to except in due process of law. Therefore, the said statement cannot be read to mean to clothe the appellants with the capacity of perpetual tenants under

respondent No.3.

In view of possession of the appellants over the property in dispute having become unauthorized, eviction has been rightly ordered by the revenue authorities under the Act and has been rightly upheld by the learned Single Judge.

In view of the above, we do not see any reason to interfere with the well reasoned order passed by the learned Single Judge.

Consequently, the appeals fail and are dismissed. However, in the peculiar facts and circumstances of the case, parties are left to bear their own costs.

**(SATISH KUMAR MITTAL)**  
**JUDGE**

**(MAHAVIR S. CHAUHAN)**  
**JUDGE**

**01.10.2015**

*PA*