

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

Civil Revision No.3689 of 2002 (O&M)
Date of Decision: September 23rd, 2016

Muni Lal

...Petitioner

Versus

Gram Panchayat Kanehi Tehsil and District Gurgaon (now part of
Municipal Corporation, Sector 34, Gurgaon & others)

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.V.K.Jindal, Senior Advocate with
Ms.Janya Sirohi, Advocate &
Mr.Amardeep Sheoran, Advocate,
for the petitioner.

Mr.J.S.Yadav, Advocate,
for respondent No.4.

AMIT RAWAL, J.

Petitioner is aggrieved of the impugned order dated 29.5.2002, whereby the application moved under the provisions of Sections 151, 152 and 153 of the Civil Procedure Code, has been dismissed.

Mr.V.K.Jindal, learned Senior Counsel assisted by Ms.Janya Sirohi and Mr.Amardeep Sheoran, Advocate, representing the petitioner submits that the land in dispute was acquired as per the notification issued under Section 4 of the Land Acquisition Act on 20.4.1990, whereas notification under Section 6 was issued on 18.4.1991. The petitioner along with other persons were tenants and the ownership was of Gram Panchayat. The amount of compensation was to be apportioned and in this process, a petition under Section 30 of the Act was filed. No doubt, the eviction

petition against the petitioner was moved on 30.6.1997 and the same was decided on 18.3.1999 and appeal filed there against was also decided on 9.12.1999. For the aforementioned reasons, the petitioner is entitled to compensation in the ratio of 75%, being the tenant. The Court below, while adjudicating the application under Section 30 of the Act, wherein the petitioner was arrayed as proforma defendant No.13, did not determine the amount of compensation. In this backdrop of the matter, application aforementioned was filed, which has been dismissed.

Per contra, Mr.J.S.Yadav, learned counsel for respondent No.4 submits that the possession of the petitioner was unauthorised since 1982. He was not even a tenant at will. This fact has been noticed by the Court below and particularly in cross-examination, the petitioner admitted that he had not making any payment of batai to the owners of the disputed land, much less had not been able to prove any writing of tenancy. In view of this factual position, the Court below did not apportion the amount of compensation in favour of the petitioner. The order of ejectment has attained finality. Unless and until the same is set-aside, the petitioner cannot claim compensation.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submission of Mr.Jindal, for, the ejectment order reveals that the petitioner was not tenant, but in unauthorised possession as he has failed to prove the payment of rent, much less writing of tenancy. This fact was also admitted by the petitioner when subjected to cross-examination. While passing the ejectment order, the petitioner has also been called upon to pay ₹5,000/- per hectare per year as penalty. Had the status of the petitioner been of a tenant,

perhaps there would not have any order of penalty. I am of the view that once a person, who is in unauthorised possession, cannot be clothed with the status of a tenant and take the benefit of compensation to the extent of 75%.

There is a categoric finding in the ejectment proceedings regarding the status of the petitioner being unauthorised occupant. The ejectment order has attained finality in the appeal when the same had been dismissed on 9.12.1999. Though the findings had attained finality, but this Court cannot deviate from the aforementioned findings and accord status of tenancy.

In my view, the order under challenge is legal and justified and the same cannot be said to be passed without jurisdiction.

No ground for interference is made out.

Revision petition stands dismissed.

September 23rd, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No