

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12759 of 2015 (O&M)

Date of decision: 14.07.2016

Dalbir Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. B.S. Sidhu, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

CM No.7922-CWP of 2016

Applicant seeks permission to place on record the Constitution of
Dharamsala, in compliance of the order dated 17.08.2015.

Application is allowed, as prayed for.

CM stands disposed of.

CWP No.12759 of 2015

Present writ petition is directed against the order dated 31.03.2014
(Annexure P-12) passed by the Commissioner, Jalandhar Division upholding the
ejectment order dated 25.05.2010 (Annexure P-11) passed by the Collector,
District Tarn Taran.

Brief facts of the case are that suit land was owned by Dharamsala
Bhai Chain Sahib, a registered Religious Society. Petitioners who were in
cultivating possession of land owned by the religious society never claimed their
ownership. It is also a matter of record that in compliance of the ejectment order

dated 25.05.2010 (Annexure P-11) passed by District Collector, Tarn Taran, petitioners have already handed over the possession to the true owner i.e. the respondent-religious society. They are no more in possession as the vacant possession has been handed over by them during pendency of their appeal before the Commissioner, Jalandhar Division, as submitted by learned counsel for the petitioners. The only issue now remains to be considered is whether the petitioners are liable to pay the arrears of rent in view of the directions issued to them by the same order of ejectment dated 25.05.2010 passed by the Collector, District Tarn Taran.

Learned counsel for the petitioners submits that the petitioners are not liable to pay the arrears of rent because the impugned ejectment order to the extent of arrears of rent is patently illegal. He further submits that even the appellate authority did not decide this issue considering the merits of the case. He prays for setting aside the impugned orders qua arrears of rent, by allowing the present writ petition.

After hearing the learned counsel for the petitioners at considerable length, careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned orders passed by the learned Collector, District Tarn Taran as well as Commissioner, Jalandhar Division, Jalandhar have not been found suffering from patent illegality or perversity, because of which they deserve to be upheld. The writ petition is bereft of merit and the same is liable to be dismissed.

As noticed hereinabove, petitioners, on their own, surrendered their possession and handed over the vacant possession of the suit land to its true owner i.e. Dharamsala Bhai Chain Sahib, a registered religious society. During

the course of hearing, when the learned counsel for the petitioners was confronted whether the respondent-religious society sought any police help in taking the possession, in compliance of the ejectment order dated 25.05.2010 passed by the Collector, District Tarn Taran, he fairly states that no such police help was sought by the respondent-religious society. This material fact would go a long way to show that the petitioners accepted the ejectment order and surrendered their possession to the true owner. Petitioners handed over the possession of the suit land during pendency of their appeal before the Commissioner, Jalandhar Division, Jalandhar. Once the petitioners have partly accepted the impugned ejectment order dated 25.05.2010 (Annexure P-11) regarding handing over the possession, petitioners cannot refuse to accept the remaining part of the same order qua arrears of rent. It is so said because neither the respondent-religious society forced the petitioners to hand over the vacant possession of the suit land nor any coercive steps were taken against the petitioners in that regard. As noticed above, petitioners never claimed title over the suit land. It is also not in dispute that they were in arrears of rent from Sauni 1999 to Hari 2002. Learned Collector has directed the petitioners to pay arrears of rent only for this undisputed period. The relevant part of the impugned ejectment order passed by learned Collector, District Tarn Taran deserves to be noticed here and the same reads as under: -

“After hearing the ld. Counsel for both the parties, going through the relevant record placed on file and after applying my mind carefully and judiciously, it is observed that the applicant has fully proved his case that applicant-society is a Religious Society duly registered under the Society Registration Act, 1860 and as amended

by the Punjab Amendment Act, 1957 with its registration No.336 of 1999-2000. This establishes the fact that the applicant-society is duly registered one. The applicant has also proved on record the copy of the Minutes Book of the applicant-Hardit Singh. This document also proves on record the resolution dated 6.7.2002 passed by the Management of applicant-Society authorised the applicant-Hardit Singh to sign, verify, present and sue the case being the President of the applicant-Society against the respondents for recovery of arrears on account of use, occupation and damages of the land of the religious applicant-Society from the respondents. The applicant-society has also proved on record the revenue documents to prove that the suit land is ownership of applicant-Religious Society and it is entitled to recover the arrears from the respondents @ Rs.10,000/- per year per killa of suit land under the use, occupation and damages. On the other hand, the respondents have miserably been failed to prove their case. They could not produce any cogent evidence or document for their lawful possession on the suit land. On the other hand, it has been proved on record that the respondents are in illegal and unlawful possession of the society and belonging to the applicant-Religious Society and they are earning money by cultivating the same. Therefore, under the law the respondents are liable to pay to the applicant-Religious Society for the use and occupation charges. They are further liable to be evicted from the suit land and are liable to pay the arrears for use, occupation of the society land at

the rate of Rs.10,000 per year per killa for the period from Sauni 1999 to Hari 2002. Therefore, the order is passed accordingly directing for the eviction of the respondents from the disputed land with further directions to pay the arrears for use, occupation of the society land at the rate of Rs.10,000/- per year per killa for the period from Sauni 1999 to Hari 2002 and to hand over the vacant possession of the disputed land to the applicant-society within 30 days from the date of issue of this order.”

It is not either pleaded or argued case on behalf of the petitioners that they were not granted due opportunity of being heard. Learned Collector has passed a self-contained ejectment order, which already stood implemented so far as the possession of the suit land is concerned. Since the petitioners have neither denied the ownership of the respondent-religious society nor they have alleged the rate of rent for the abovesaid period from Sauni 1999 to Hari 2002 to be on higher side, they were rightly found liable to pay the arrears of rent for this period. In fact, learned Collector committed no error of law, while passing the ejectment order, which stands partly implemented qua possession of the suit land. Once the petitioners have partly accepted the same ejectment order qua possession of the suit land, they are bound to pay the arrears of rent as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders passed by the respondent authorities are based on true facts of the case and have not been found suffering from any patent illegality. The writ petition is wholly misconceived, bereft of merit and without

any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

14.07.2016
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[RAMESHWAR SINGH MALIK]
JUDGE