

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12775 of 2016 (O&M)

Date of decision: 21.07.2016

Ved Pal Sharma

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sanjay Vij, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

CM No.8075-CWP of 2016

Applicant seeks pre-ponement of the date of hearing.

After hearing the learned counsel for the applicant, instant application is allowed and the date of hearing is ordered to be pre-poned from 28.07.2016 to today.

CM stands disposed of.

CWP No.12775 of 2016

Present writ petition is directed against the order dated 19.05.2016 (Annexure P-11) passed by the Appellate Authority-cum-Commissioner, Municipal Corporation, Gurgaon, whereby the order dated 27.01.2016 (Annexure P-9) passed by Joint Commissioner-II, Municipal Corporation, Gurgaon against the petitioner was upheld, directing him to vacate the premises on which he was found in unauthorized possession.

Learned counsel for the petitioner submits that Ram Swroop, who

was tenant of the respondent-Municipal Corporation on the land in question, created a sub-tenancy in favour of the petitioner and accordingly petitioner came in possession over the suit land. When the petitioner was apprehending his forcible dispossession, he filed a suit for injunction before the learned Civil Court, whereby he was granted interim injunction. He submits that during pendency of the civil suit, when the petitioner was given to understand by the Municipal Corporation that he would be inducted as a direct tenant, petitioner withdrew his suit. Learned counsel for the petitioner places reliance on numerous receipts placed on record as Annexures P-1, P-2 and P-3 (colly.), to contend that the respondent-Corporation had been receiving the rent from the petitioner from time to time. Placing reliance on communication dated 15.07.2010 (Annexure P-4), learned counsel for the petitioner submits that name of the petitioner was mentioned in para 1 thereof along with other persons, whose sub-lease was stated to be regularized. In such a situation, learned counsel for the petitioner submits that it was not appropriate on the part of the respondent Municipal authorities to pass the impugned orders (Annexures P-9 and P-11), thereby directing the petitioner to vacate the premises in dispute, because he was not in unauthorized possession thereon. He prays for setting aside the impugned orders, by allowing the present writ petition.

After hearing the learned counsel for the petitioner 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 order passed by the respondent authorities have not been found suffering from patent illegality or perversity, because of which the present writ petition is bereft of merit and the same is liable to be dismissed.

A combined reading of both the orders passed by the respondents No.2 and 3 would make it crystal clear that each and every relevant aspect of the matter has been thoroughly examined, discussed and appreciated in the correct perspective. Petitioner was found in unauthorized possession. Neither any lease deed has ever been issued in favour of the petitioner nor he could establish his entitlement to continue in possession of the suit land. It is also a matter of record that Ram Swroop who is alleged to have inducted the petitioner as sub-tenant, already stood evicted from this very piece of land. In this view of the matter, it can be safely concluded that at the most, the petitioner would step into the shoes of his lessor Ram Swroop who allegedly inducted the petitioner as sub-tenant. Once Ram Swroop himself stood evicted, petitioner would have no right to continue in possession as the same would become unauthorized.

So far as the settlement arrived at between the petitioner and respondent Corporation is concerned, no document of any kind, even worth the name, has been placed on record. During the course of hearing, when learned counsel for the petitioner was confronted with this fact situation and to show any such document which might be even remotely suggesting to any settlement between the parties, he had no answer and rightly so, it being a matter of record.

As far as the name of other persons referred in Annexure P-4 is concerned, firstly; petitioner cannot raise the issue of discrimination so as to avoid his ejectment. Secondly; no such lease deed in favour of any of his allegedly similarly situated sub-tenants has been placed on record. All these issues were considered and rightly rejected by the respondent authorities, while passing the impugned orders and the same deserve to be upheld, for this reason also.

The relevant discussion in the impugned order dated 27.01.2016 (Annexure P-9) at page 89 of the paper book, reads as under: -

“..... Because Ram Swroop had been ordered to be evicted from the aforesaid land by the court of Sub-Divisional Officer (civil) Gurgaon then on what basis the name of Ram Swroop was entered again in the record and how while tempering and making cutting in the record the name of Ved Prakash son of Shish Ram appeared. Against this very report Civil Suit No.132/13.03.1999/CJM which was filed by Sh. Ved Pal son of Shish Ram in the court against the Municipal Corporation, vide order dated 10.01.2004 the said suit had been withdrawn by Ved Pal himself wherein the ld. Court has shown the same to be dismissed/withdrawn and there is no connection of the same with Municipal Corporation and as per the report of Regional Tax Officer-II in para No.3 it has been shown that no land has been given on lease by the Municipal Corporation in front of any building.

Keeping in view the aforesaid facts the undersigned has reached a conclusion that Sh. Ved Pal son of Shish Ram has taken the aforesaid land from Sh. Ram Swroop son of Sukh Dayal being sub-lettee nor had he taken the same from Sh. Anand Prakash Gupta son of Kirpa Ram on rent nor did the Commissioner and Secretary to Government of Haryana granted any permission. Moreover as per the records of the Municipal Corporation, Gurgaon no documents/order is available regarding giving the land on lease to Sh. Ved Pal son of Shish Ram, hence the receipts

regarding tenancy which have been obtained by Ved Pal son of Sh. Shish Ram from the Municipal Corporation are taken wrongly.”

When the petitioner filed his appeal against the abovesaid order, the appellate authority again considered all the issues raised by the petitioner, by passing a detailed and self-contained order dated 19.05.2016 (Annexure P-11), relevant part of which reads as under: -

“During the course of arguments Ved Pal Sharma son of Shish Ram was asked to produce the letter of allotment issued by Municipal Corporation but he could not produce the same. The counsel for the appellant while arguing has reiterated that the suit filed by him had been withdrawn only on the condition that at that time there had been a settlement arrived at between Ved Pal and the Municipal Committee regarding tenancy but the appellant on asking to produce the copy of settlement could not do so. It will be relevant to mention that there is no permission granted by the Government of Haryana regarding the transfer of the disputed land in favour of the appellant. Therefore the amount of rental got deposited by the appellant till date does not establish his tenancy rights.

Hence after hearing both the parties and perusing carefully the records of the case I have reached a conclusion that there is no substance found in the present appeal and the orders dated 09.02.2016 which have been passed by Sh. Pardeep Dagar, HCS, Joint Commissioner-II, Municipal Corporation, Gurgaon are explicit and correct. The Joint Commissioner-II Municipal Corporation, Gurgaon is directed that the new facts which have

emerged in the case, further action as per law may be taken.”

It is neither pleaded nor argued case on behalf of the petitioner that he was not granted due opportunity of being heard at every stage of the litigation. The respondent authorities have proceeded strictly in accordance with law. Petitioner has miserably failed to establish his entitlement to continue in the possession any further. Learned counsel for the petitioner could not substantiate any of his arguments during the course of hearing. Impugned orders have not been found suffering from patent illegality or perversity. The respondent authorities have committed no error of law, while passing the impugned orders and the same deserve to be upheld, for this reason 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 present 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 observations made above, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

21.07.2016
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