

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.16656 of 2016
Date of decision:17.8.2016**

Faquir Chand

...Petitioner

Versus

Additional District Judge, U.T. Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Arjun Kundra, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present writ petition is directed against the order dated 20.7.2016 passed by the learned Additional District Judge, Chandigarh, whereby appeal of the petitioner against the eviction order dated 29.4.2014, passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 ('the PP Act' for short) was dismissed and the eviction order was upheld.

Heard learned counsel for the petitioner.

Facts are hardly in dispute. Petitioner was serving as Constable in the Chandigarh Police. He was allotted a government accommodation, bearing House No.1/T-I, NPL, Sector-26, Chandigarh. A complaint having been received against the petitioner that he was no more living in the allotted government accommodation himself but has been running a paying guesthouse (P.G.) in the same, surprise checking of the public premises was carried out. Neither the petitioner nor his wife was found living in the said public premises. Two lady constables were found living there. On the basis of said inspection report, Inspector General of Police, U.T. Chandigarh, cancelled the allotment of police pool's House No.1/T-I, NPL, Sector-26,

Chandigarh w.e.f. 29.8.2013 because the said government accommodation was found to have been misused by the petitioner.

Based on the above-said ground of cancellation of allotment of the house in question, notice under Section 4(1) of the P.P. Act was issued to the petitioner vide communication dated 11.11.2013 (Annexure P-1). Petitioner filed his reply vide Annexure P-2. Petitioner stated in his reply that he had already approached the Home Secretary, U.T. Chandigarh, against the above-said cancellation of his government accommodation.

However, during the course of arguments, learned counsel for the petitioner has fairly conceded that since Home Secretary, U.T. Chandigarh was not having any jurisdiction to set aside the cancellation order passed by the Inspector General of Police, said order of cancellation has become final against the petitioner. Once the order of cancellation of the government accommodation passed by the competent authority has attained finality against the petitioner, he became liable for ejectment from the public premises, under the relevant provisions of law, contained in the PP Act. Only that is what has been done by the competent authority, while passing the impugned ejectment order (Annexure P-3) dated 24/29.4.2014, which deserves to be upheld.

Petitioner filed his appeal vide Annexure P-5 before the learned District Judge, Chandigarh, alleging that he was not granted due opportunity of being heard and the procedure laid down under the PP Act was not properly followed. The matter was considered by the learned Additional District Judge, Chandigarh, before passing the impugned order dated 20.7.2016 (Annexure P-6). After hearing the learned counsel for the parties and going through the record, learned Additional District Judge,

recorded cogent findings against the petitioner, which have been found duly supported by sound reasons.

The relevant observations made by the learned Additional District Judge, in operative part of the impugned order, which deserve to be noticed here, read as under:-

“However, perusal of Estate Office file reveals that a proper notice of eviction proceedings had been given to the appellant and he had been attending those proceedings and there was no requirement of asking the parties to adduce evidence as the appellant had admitted that at the time of checking, he along with his wife were not present in the house in question, rather his daughter along with two lady constables were found present in it. In these facts and circumstances, there was no requirement for fixation of the case for petitioner evidence because the allegation against the appellant was that actually he was running a P.G. In the house in question. Hence, the observations made in the authority (supra) are not helpful to the case of the appellant and this Court finds that the impugned order dated 29.4.2014 was passed after providing due opportunity and the learned counsel has failed to point out any illegality, whatsoever, in the said impugned order and the appeal being devoid of merit stands dismissed with costs. A copy of this judgment be sent to the quarter concerned. File be consigned to the record room after due compliance.”

During the course of hearing, learned counsel for the petitioner failed to point out any patent illegality or perversity in the impugned orders Annexure P-3 as well as Annexure P-6. Further, no prejudice of any kind, whatsoever, has been shown to have been caused to the petitioner, by passing the impugned orders. In fact, the impugned orders have been found based on true facts and circumstances of the case and the same have also been passed, strictly in accordance with law. Had the order of cancellation

of allotment of the government accommodation would not have become final against the petitioner, the matter would have been different.

However, as noticed hereinabove, since the order of cancellation of allotment passed by the Inspector General of Police has become final against the petitioner, he has no case either on facts or in law. The respondent authorities have committed no error of law, while passing the impugned orders and the same deserve to be upheld, for this reason also.

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 instant 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 above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

17.8.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No