

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 18862 of 2014
Date of Decision: 27.8.2016

Ranjit Lal and others

.....Petitioners

Vs.

Commissioner, Hisar Division, Hisar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Kul Bhushan Sharma, Advocate
for the petitioners.

Mr. R.K. Doon, AAG, Haryana.

Mr. P.S. Poonia, Advocate
for respondent No.4.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the ejectment order dated 30.5.2012 (Annexure P-2) passed by Sub Divisional Officer (Civil), Hansi and appellate order dated 8.7.2014 (Annexure P-1) passed by the Commissioner, Hisar Division, Hisar, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Notice of motion was issued and in compliance thereof, written statement on behalf of contesting respondents No. 1 to 3 has been filed.

Learned counsel for the parties are ad idem that initially, petitioners were owners in possession of the land in question. Land owned by the petitioners to the extent of 8 kanal 4 marla, was acquired by the Land

Acquisition Collector. Since the land was acquired for the Irrigation Department, for construction of drain, total acquired land could not be put to its optimum use and some area remained unutilised at the site. Since the land was lying vacant, many original owners, like the petitioners, started cultivating the same.

After an inordinate long period of about 44 years, ejectment applications were filed under the relevant provisions of Haryana Public Premies and Land (Eviction and Recovery) Act, 1972 and the impugned ejectment order came to be passed by the competent authority. Petitioners filed their appeal which was also dismissed, vide impugned order dated 8.7.2014 (Annexure P-1), passed by the appellate authority.

Learned counsel for the petitioners refers to the notice of motion order dated 11.9.2014 passed by this Court, to contend that he had already restricted his prayer to the limited extent, that petitioners are ready to deposit the compensation for three years, whereas, Sub Divisional Officer (Civil), Hansi, exceeded his jurisdiction, while passing the impugned order Annexure P-2, ordering recovery of rent from the petitioners from 1963-64.

Order dated 11.9.2014 passed by this Court, reads as under:-

“Learned counsel for the petitioners submits that his limited challenge is to the damages awarded for use and occupation of the land in question. According to him, petitioner has been held liable to pay compensation w.e.f. 1963-64 @ Rs.4000/- per hectare per annum and interest @ 9% per annum. However, petitioner is ready to deposit the compensation for last three years. He further states that in case land in question has not been vacated, petitioner shall

do so within two weeks from today.

Notice of motion for 22.9.2014.

Notice re: stay as well.

On the asking of the court, Mr. Saurabh Mohunta, DAG, Haryana accepts notice. He prays for some time to seek instructions.”

Learned counsel for the petitioners submits that in compliance of the abovesaid order, petitioners have already handed over vacant possession of the land to the respondent authorities. This fact has not been denied by the learned counsel for the State as well. Learned counsel for the petitioners further submits that petitioners have already deposited the requisite amount of rent @ ₹4,000/- per hectare per annum for a period of three years. This fact has also not been controverted by the learned counsel for the State.

During the course of hearing, when the learned counsel for the State was confronted as to how the State was entitled to recover rent beyond three years, he had no answer and rightly so, it being a matter of record. He could not refer to any statutory or judgemade law, in this regard, which may support the impugned order, to the abovesaid limited extent. Having said that, this Court feels no hesitation to conclude that this writ petition deserves to be partly accepted.

No other argument was raised.

After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that abovesaid limited prayer made by learned counsel for the petitioners deserves to be accepted. Once the vacant possession of the land in question had been handed over by the petitioners and the compensation for three years has

already been deposited, respondent authorities shall not be entitled to recover any more amount from the petitioners. It is clarified that petitioners are not liable to pay any more amount towards compensation/rent for the land in question

Resultantly, with the abovesaid observations made, present writ petition is allowed to the limited extent, indicated above. No costs.

(RAMESHWAR SINGH MALIK)
JUDGE

27.8.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No