

CWP No. 21535 of 2013

Date of decision: 14.01.2016

Dr. Ashok Kumar Sharma and another**.....Petitioners****versus****State of Punjab and others****.....Respondents****Coram: Hon'ble Mr. Justice Rakesh Kumar Jain****Present:** Mr. Hitesh Kaplish, Advocate
for the petitioner.

Mr. R.S.Pathania, DAG, Punjab.

Rakesh Kumar Jain, J.(Oral)

Present petition has been filed for seeking a writ in the nature of mandamus directing the respondents to vacate the demised premises, allegedly a Nursing Home cum Hospital run by the petitioner.

According to counsel for the petitioners, the respondents were given one room of the said premises which is in fact a house, for opening a police chowki on the asking of the Panchayat for a short period but ultimately the respondents have allegedly taken the possession over the entire property.

On the other hand, counsel for the respondents has submitted that the entire property was given to the respondents by the care taker of the property to whom the petitioner had handed over the keys of the property in question on the asking of the Panchayat for the purpose of opening a police chowki. Therefore, there was no illegal possession.

Be that as it may, the fact remains that the possession of the demised premises has already been handed over to the petitioner, therefore, this petition has become infructuous. But the counsel for the petitioner has

submitted that the respondents have not paid the damages of the occupation of the house and also for causing extensive damage to it.

This issue cannot be decided by this Court because its a question of fact which requires oral as well as documentary proof, not only about the question of handing over the property voluntarily to the petitioner but also of the extent of damages etc. Therefore, the petitioner, if so advised, may avail of his remedy by filing a civil suit for damages.

The present petition is thus, hereby disposed of.

14th January, 2016
Shivani Kaushik

[Rakesh Kumar Jain]
Judge