

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5839 of 2011 (O&M)
Date of decision: 12.1.2016

Mohan Singh

.. Petitioner

v.

Punjab State Electricity Board and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. Sukhbir Singh, Advocate for respondent No. 1.

Mr. Inder Pal Goyat, Addl. Advocate General, Punjab.

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Rajesh Bindal J.

The petitioner has approached this court impugning the order dated 31.8.2010 (Annexure P-11), passed by the appellate authority in an appeal filed against the order dated 7.1.2010, passed by the Collector, Patiala Sub Division, Patiala directing eviction of the petitioner from the premises in dispute under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short, 'the Act').

Learned counsel for the petitioner submitted that vide office order dated 28.9.1999, the petitioner was allotted a space measuring 15'x10' in the complex of Head Office building of erstwhile Punjab State Electricity Board (for short, 'the Board') at a monthly rent of ₹ 500/-. The same continued thereafter. Even the rent was also increased. The petitioner had been paying the same regularly. On 20.2.2002, the petitioner was issued notice to vacate the premises. Thereafter, the petitioner filed suit challenging action of the respondents on 25.2.2002, which was decreed in

favour of the petitioner restraining the defendants from dispossessing the petitioner from the premises in dispute unless in due course of law. The decree of the civil court was upheld in appeal by the lower appellate court vide judgment and decree dated 17.1.2009. In the communications dated 29.12.2004, 13.5.2004 and 8.8.2006, the petitioner was termed as tenant by the respondents. Before passing the impugned order, the petitioner was never issued notice under Section 4 of the Act. The premises in dispute was not public premises, as the petitioner was being termed as a tenant, hence, the provisions of the Act were not applicable and consequently, the impugned order (Annexure P-11) deserves to be set aside.

Learned counsel for the respondents submitted that the petitioner was merely granted a licence to run a tea shop for a period of one year on 28.9.1999. The licence was extended for a period of one year thereafter from 14.10.2000 to 13.10.2001. On 20.2.2002, the petitioner was issued notice to vacate the same. Ever since then the petitioner is enjoying the possession thereof on account of litigation pending at various levels. Earlier he filed the civil suit. After the decision thereof, when proceedings under the Act were initiated, he preferred appeal and thereafter the present writ petition. It is wrong to allege that the petitioner was not issued any notice, rather, against the notice issued, he filed civil suit and the proceedings remained pending. Even before passing the impugned order, the Collector had afforded due opportunity of hearing to the petitioner. The status of the petitioner was never that of a tenant, rather, he was merely a licensee. The licence was not given in perpetuity, hence, there is no illegality in the impugned order passed.

Heard learned counsel for the parties and perused the paper book.

From the material on record, it is evident that the petitioner was allowed to operate his tea shop from a space measuring 15'x10' by the Board in its Head Office Complex building at Patiala at a monthly rent of ₹ 500/-. One of the conditions mentioned in the allotment letter was that the authority had a right to cancel the same without any previous notice. The licence was extended for a period of one year from 14.10.2000 to

13.10.2001 vide office order dated 7.11.2000. Thereafter, the petitioner was issued a show cause notice dated 20.2.2002 stating therein that the Board has already constructed a canteen complex for its employees, which is to be allotted after inviting tenders. The licence granted to the petitioner was cancelled and he was directed to hand over the possession to the authority concerned. The petitioner preferred a civil suit, which was disposed of on 14.6.2006 holding that the petitioner cannot be evicted unless in due course of law. In appeal, the decree of the trial court was upheld. It was thereafter that the Collector under the Act passed the order for eviction of the petitioner from the premises in dispute on 7.1.2010, which was upheld in appeal by Deputy Commissioner, Patiala, exercising the powers of the Commissioner.

The contention raised by learned counsel for the petitioner that he was a tenant and not a licensee is totally misconceived as the issue was raised by the petitioner even before the civil court when he challenged the notice of eviction. The trial court opined that status of the petitioner was not more than a licensee. There was no evidence led by the petitioner to prove that there was any intention to create any tenancy. The judgment and decree of the trial court was upheld by the lower appellate court, hence, to claim that the petitioner was a tenant, as this word was used in some of the communications by the Board with the petitioner prior to filing of the civil suit, deserves to be rejected. Ordered accordingly.

As far as the contention of the petitioner regarding non-issuance of notice before passing the order of eviction is concerned, even that is also totally misconceived. It is not in dispute that the petitioner had been issued a notice dated 20.2.2002, which he challenged before the civil court. After disposal of the litigation by the civil court, those proceedings continued. Even before the Collector, the petitioner had been afforded due opportunity of hearing before passing the order, which was even upheld in appeal, hence, the petitioner has not been able to make out even that ground for interference in the present petition.

For the reasons mentioned above, I do not find any merit in the present petition. The same is accordingly dismissed. The petitioner is

directed to hand over vacant physical possession of the premises in dispute to the competent authority of the Board within a period of three months from today. On failure, the respondents shall be entitled to initiate proceedings for contempt against the petitioner.

(Rajesh Bindal)
Judge

12.1.2016
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