

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.19058 of 2016
Date of decision: 15.09.2016**

Krishan Kumar and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vivek Khatri, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the appellate order dated 04.08.2016 (Annexure P-5) passed by Commissioner, Hisar Division, Hisar, whereby eviction order dated 06.06.2014 (Annexure P-3) passed by the Collector, was upheld, dismissing the appeal of the petitioners, they have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioners.

It is a matter of record that late Sh. Sardara Ram was employee of the respondent-University. It is also not in dispute that his services were terminated w.e.f. 12.06.1995. Said Sh. Sardara Ram, father of the petitioners, challenged his termination order by way of civil suit. However, civil suit also came to be dismissed by the learned Court of competent jurisdiction. Whether the plaintiff-late Sh. Sardara Ram challenged the judgment and decree passed

by the learned trial Court before the First Appellate Court or not, is not known to learned counsel for the petitioners. Once the services of late Sh. Sardara Ram, who was allotted the govt. accommodation in the premises of the respondent-University, were terminated in the year 1995, said ex-employee of the respondent-University was not entitled to retain the govt. accommodation any further. Late Sh. Sardara Ram expired in the year 2009 but even thereafter, petitioners kept on retaining the said govt. accommodation and did not vacate the same.

Having been left with no other option, the respondent-University filed the eviction petition under Sections 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972. Once the eviction petition was dismissed for non-prosecution vide order dated 07.03.2014 but the same was restored vide order dated 25.03.2014, after due notice to counsel for the petitioners, who was representing them before the learned Collector. Learned counsel accepted the notice and appeared before the Court. He stated that since the brief has been taken from him, he was not having any further information in that regard. This conduct on the part of learned counsel for the respondents in the eviction petition, the petitioners herein, was taken by the learned Collector as a delaying tactics on the part of the petitioners. After hearing learned counsel for the respondent-University and going through the record available on the file, impugned eviction order dated 06.06.2014 (Annexure P-3) was passed and they were directed to pay penal rent as well.

Dissatisfied with the eviction order, petitioners filed their appeal (Annexure P-4), which also came to be dismissed by the appellate authority i.e. Commissioner, Hisar Division, Hisar vide impugned order dated 04.08.2016

(Annexure P-5).

Having heard the learned counsel for the petitioners at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that petitioners have no case either on facts or in law. When a pointed question was put to learned counsel for the petitioners as to what is the right of the petitioners to stay in the govt. accommodation, which was allotted in the name of their father, when he was serving the respondent-University, he had no answer and rightly so, it being a matter of record.

After the services of late Sh. Sardara Ram were terminated on 12.06.1995, even he had no right to stay in the govt. accommodation, because relationship between employee and employer had ceased with the termination of his services. As noticed hereinabove, late Sh. Sardara Ram died in the year 2009 but petitioners still did not vacate the premises in question. In fact, combined reading of the impugned orders would show that petitioners had been proceeding on a dishonest and malafide approach right from the day one. They had no right, whatsoever, to remain in the govt. accommodation after the termination of services of their father late Sh. Sardara Ram. Many others eligible and needy employees of the respondent-University would be in the queue for allotment of govt. accommodation. On the other hand, petitioners were illegally continuing in the occupation of the govt. accommodation. Having said that, this Court feels no hesitation to conclude that neither the Collector nor Commissioner have committed any error of law, while passing their respective impugned orders and the same deserve to be upheld.

Coming to the judgment relied upon by learned counsel for the

petitioners in **Shishpal Vs. State of Haryana and others, 2012 (5) RCR (Civil) 229**, there is no dispute about the observations made therein. However, on perusal of the cited judgment, same has not been found of any help to the petitioners, being distinguishable on facts. It is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**.

In fact, litigants like the petitioners herein, do not deserve any kind of sympathy from this Court because of their unwarranted conduct. They had been playing with the justice delivery system for more than two decades, proceeding on their common malafide intention, with a view to achieve their ulterior motive for keeping their illegal possession intact, despite having no right whatsoever. The persons who have no respect for law also does not deserve any kind of sympathy from the Court. Such an unwarranted litigation must be curbed, because the petitioners have not been found bonafide litigants.

It seems that the petitioners were closely watching the eviction proceedings before the Collector. Neither their counsel appeared nor the petitioners came forward, for the reasons best known to them. In such a situation, petitioners cannot be granted any kind of benefit on account of their own wrong. Under these circumstances, it can be safely concluded that the learned Collector as well as Commissioner were well within their jurisdiction to pass the impugned orders, which have not been found suffering from any patent illegality or perversity and the same deserve to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in either of the impugned orders. Further, no prejudice, of any kind whatsoever, has been shown, which might have been caused to the petitioners, while passing the impugned orders, warranting interference at the hands of this Court, exercising its writ jurisdiction under Article 226/227 of the Constitution of India.

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 since the impugned orders passed by the respondent authorities have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. 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 abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

15.09.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No