

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

**Civil Writ Petition No.25351 of 2015
Date of Decision: 13.12.2016**

Bhupinder Pal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: None for the petitioner.

Mr. Harkesh Manuja, Additional Advocate General, Punjab
for respondent No.1/State.

None for respondent Nos.2 and 3.

JASWANT SINGH, J. (Oral)

The petitioner was inducted as a tenant in Shop No.22, Outer Goal Market, Mandi Gobindgarh by the Municipal Council, Mandi Gobindgarh, and his tenancy was created w.e.f. 01.04.1984 vide Rent Deed dated 01.04.1984 (**Annexure P-1**). Since the petitioner was a defaulter in payment of rent, therefore, the Municipal Council/Landlord vide letter dated 24.09.1997 terminated his tenancy w.e.f. 01.11.1987 and asked for deliverance of the vacant possession of the shop. Since neither the arrears of rent were paid nor the possession handed over, application under Sections 4, 5 and 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short "the 1973 Act") seeking eviction of the petitioner was filed. The petitioner, instead of contesting the said application, has filed the present writ petition seeking the quashing of the notice and proceedings under the 1973 Act on the premise that appropriate proceedings for eviction would be under the Rent Act, as the petitioner was initially put in the permissive possession and, therefore, having not been unauthorizedly put in possession, proceedings under the 1973 Act are not maintainable.

Upon notice, respondent Council has filed its reply. In the reply, it is stated that after the termination of the tenancy, the petitioner is unauthorized

occupying the shop in dispute and thus proceedings under the 1973 Act are maintainable.

None has come present on behalf of the petitioner to address the arguments.

It is a settled principle of law as held by the Hon'ble Supreme Court in **Ashok Marketing Ltd. Vs. Punjab National Bank, 1990 (2) RCR (Rent) 297** that in respect of the public premises, if an action is taken by a landlord, the claim for protection under any State Rent Control Act is not applicable. Following the said decision, this Court also in **CWP No.7317 of 2015** titled as “**Rakesh Jain Vs. State of Punjab and others**”, decided on 30.07.2015, has held that once the demised premises are owned by the Municipal Council, the same are covered under the definition of the Public Premises Act and on termination of the tenancy due to violation of any condition of the tenancy/lease, the appropriate proceedings are under the Public Premises Act for eviction.

In the present case, all the pleas, which are sought to be taken, are to be adjudicated upon by the appropriate authority under the Public Premises Act in the pending application filed under the 1973 Act. It so transpires that although no stay was granted qua the proceedings below, however, the same are stated to have remained pending.

In view of the above, no interference is warranted and, therefore, the present writ petition is dismissed.

The parties are directed to appear before the appropriate authority on **30.01.2017**. It is hoped that the proceedings would be decided expeditiously by the competent authority as the same have remained pending unnecessarily for so long.

December 13, 2016

Gagan

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No