

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.2497 of 2016 (O&M)
DATE OF DECISION: 08.02.2016

Jagjit Singh

....Petitioner

versus

Union Territory of Chandigarh and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Vaibhav Gupta, Advocate for the petitioner

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

The petitioner has challenged an order dated 02.05.2011 passed by the Estate Officer cancelling the allotment of a booth for violation of the terms of allotment and for forfeiture of 10% of the premium and rejecting the request for transfer of ownership on the basis of an alleged Will. The Estate Officer also requested the department to recover damages from the allottee/occupier for the use and occupation of the premises in accordance with law. The petitioner has also challenged the order of the Chief Administrator dismissing the appeal and an order of the Adviser to the Administrator dismissing the revision petition.

2. There are several seriously disputed questions of fact. The first question is whether the original allottee Narotam Dass actually executed an alleged Will dated 24.09.1993. The official respondents can always question the authenticity of the Will. Admittedly, that Will has not been probated to date.

3. There is yet another serious complication. Narotam Dass allegedly bequeathed the booth in question to one Jaswant Singh - the petitioner's father. We are informed that the Will further provided that upon the death of Jaswant Singh, the property would devolve upon the petitioner. The petitioner's case is that in any event upon the death of Jaswant Singh, in the absence of a Will, he is entitled to succeed to the booth on intestacy. We do not even know whether there are any other heirs. On the other hand, one Ashok Manchanda claims that the petitioner's father - Jaswant Singh had in turn executed a Will dated 20.12.2007 in his favour bequeathing the booth to him. The said Ashok Manchanda has also filed proceedings before the appellate authority against the order of the Estate Officer cancelling the lease. Ashok Manchanda has also filed a Civil Suit, *inter alia*, claiming the alleged Will to be executed by Jaswant Singh in his favour. Despite the same, the petitioner has not impleaded the said Ashok Manchanda. The said Ashok Manchanda's proceedings have also been dismissed by the impugned orders.

4. There is no question, therefore, at this stage of the Estate Officer allotting the booth to any of the parties. The parties would be entitled if at all to claim any rights only after they establish the authenticity of the alleged Wills of the original allottee dated 24.09.1993 and their subsequent rights in accordance with law in properly constituted civil proceedings. The petitioner is always at liberty to adopt such proceedings for establishing his rights in respect of the said booth whether under the alleged Will dated 24.09.1993 or on intestacy or otherwise. It is only thereafter that the petitioner would be entitled to challenge the impugned orders. It would be futile to entertain a

challenge to the impugned orders at this stage without the petitioner establishing his right to succession as the exercise would be in futility if the petitioner is ultimately unable to establish any right.

5. The writ petition is accordingly disposed of. It is clarified that the respondents are not restrained from dealing with the booth/premises in any manner whatsoever.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

08.02.2016
amodh/parkash*

(ARUN PALLI)
JUDGE