

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

LPA No. 250 of 2015 (O&M)

DATE OF DECISION : 23.08.2016

Ram Dev Goel

.... APPELLANT

Versus

Haryana Tourism Corporation and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. S.S. Behl, Advocate,
for the appellants.

Mr. Shubham Aggarwal, Advocate,
for the respondents.

* * *

RAMENDRA JAIN , J.

1. This order shall dispose of a batch of six appeals bearing LPA Nos. 250, 255, 316, 329, 356 and 360 of 2015, filed by six different occupants of separate shops situated in the same vicinity belonging to the Haryana Tourism Corporation (respondent No.1), as according to learned counsel for the parties, common questions of law and facts are involved therein. For brevity, the facts are being extracted from LPA No. 250 of 2015.

2. The appellants are challenging the order dated 18.12.2014 passed by the learned Single Judge, whereby a batch of 13 writ petitions (including the writ petitions filed by the present appellants) has been dismissed, and the orders passed by the authorities constituted under the

(hereinafter referred to as 'the Public Premises Act') ordering eviction of all the occupants from the shops in question have been upheld.

3. Admittedly, the appellants or their predecessors were granted licences by the Zila Parishad, in respect of the shops in question, for carrying on business. In the year 1972, agreement of the Zila Parishad with the licensees had expired and in the year 1974, the shops in question were transferred to the respondent Corporation. Thereafter, in June, 1997, on failure of the licensees to deposit the enhanced amount of license fee, their licences were revoked and notices were issued to them to vacate the shops and deposit the amount of license fee. But the licensees neither vacated the shops nor deposited the balance amount. Therefore, the respondent Corporation filed separate petitions under Sections 4, 5 and 7 of the Public Premises Act before the Collector, Rohtak, for eviction of the present appellants and other similarly situated occupants of the shops and for recovery of arrears. After affording opportunity of hearing to the parties and considering the evidence led by them, the Collector, vide separate orders dated 07.12.2001, allowed the aforesaid petitions, while holding all the occupants, including the present appellants, to be in unauthorised occupation of the shops in question. Accordingly, the appellants were directed to be evicted from the shops in question, with a further direction to them to deposit the balance amount along with interest @ 18% till vacation of the shops.

4. Aggrieved by the said orders passed in their cases, the appellants and the other similarly situated licensees of the shops filed separate appeals under Section 9 of the Public Premises Act. The

Commissioner, Rohtak Division, Rohtak, vide common order dated 14.05.2002, disposed of the appeals, while observing that the licensees defaulted in payment of agreed rent and therefore, were liable to be ejected. It was ordered that the respondent Corporation should re-calculate the amount of compensation to be paid by the licensees and recover the same.

5. The correctness of the aforesaid orders of both the authorities was challenged by all the licensees by way of separate writ petitions, which have been dismissed by the learned Single Judge vide common order dated 18.12.2014. It has been held that in all the cases, notices had been issued which is required under the law. While relying upon a decision of the Supreme Court in **Jiwan Dass Vs. Life Insurance Corporation of India (1994) Supp 3 SCC 694**, it has been further held that the issuance of notice itself is a manner of terminating a licence and the actions for eviction more than 7 days after notices are themselves sufficient compliance of Section 4 of the Public Premises Act.

6. The aforesaid order dated 18.12.2014 has been impugned in the instant appeals.

7. Learned counsel for the appellants argued that in this case, notices were issued to the appellants in the month of June, 1997, on behalf of ADM, Myna, Rohtak, who was not empowered under the Public Premises Act to serve such notice, because Section 4 of the Public Premises Act provides that it is only the Collector who can issue notice in writing to any person who in his opinion is in unauthorized occupation of any public premises situated within his jurisdiction to show cause why an order of eviction should not be passed and the notice shall specify the grounds on

which the order of eviction is proposed to be made. If the appellants were in arrears of rent payable in respect of the shops in question, then as per Section 7 of the Public Premises Act, the Collector, by order, was required to recover such rent as arrears of land revenue within such time and in such instalments as may be specified in the order. However, no such order was passed by the Collector. Therefore, the respondent Corporation wrongly initiated the eviction proceedings against the appellants. The Board of Directors of the respondent Corporation in its meeting held on 15.04.1999 itself took a decision in the year 1999 to enhance the rent of the shops in question to ₹ 850/- per month. In spite of this, the respondent Corporation increased the rent to ₹ 3,000/- per month without any basis. The learned Single Judge failed to appreciate the fact that the shops in question were let out by the respondent Corporation at the rate of ₹ 300/- per month.

8. On the other hand, learned counsel for the respondents submitted that the notices served by the respondent Corporation through counsel in June, 1997, were for the purpose of terminating the tenancy/license of the appellants and demanding payment of money towards damages/mesne profits on account of unauthorised occupation of the shops in question. Subsequently, upon filing of petition under the Public Premises Act, show cause notices under Section 4 of the Public Premises Act were issued by the Collector to the appellants, as is apparent from the order dated 07.12.2001 passed by the Collector, wherein it has been recorded that the appellants were duly served and summoned through notices, who had even filed reply through counsel. Since notices to vacate the shops in question and to pay certain amounts on account of damages/mesne profits were

already issued to the unauthorised occupants, therefore, no separate order, as envisaged under Section 7 of the Public Premises Act, was required to be passed by the Collector. The respondent Corporation had issued notices to the licensees terminating their tenancy/license and demanding damages/mesne profits at the rate of ₹ 3,000/- per month on account of unauthorised possession of the shops in question. The learned Single Judge has, therefore, rightly upheld the orders of the authorities below.

9. We have thoughtfully considered the submissions made by learned counsel for the parties and have gone through the impugned order passed by the learned Single Judge as well as the orders passed by the authorities under the Public Premises Act.

10. A bare perusal of the order dated 07.12.2001 passed by the Collector shows that it has been specifically recorded therein that the present appellant was duly served and summoned through a notice, to which he filed reply through his counsel. Further, in the impugned order dated 18.12.2014, the learned Single Judge has also observed that in all the cases, notices had been issued which is required under the law. Thus, the submission made by learned counsel for the appellants that no valid notice as required under Section 4 of the Public Premises Act was issued, is not tenable. With regard to the order under Section 7 of the Public Premises Act, we find substance in the argument of learned counsel for the respondents that in view of the fact that notices to vacate the shops in question and to pay certain amounts on account of damages/mesne profits were already issued to the unauthorised occupants, the Collector was not bound to pass separate order under Section 7 of the Public Premises Act. So

far as the enhancement of rent to ₹ 3,000/- per month is concerned, this contention has already been dealt with by the Commissioner in her order dated 14.05.2002, while observing that learned counsel for the appellants tried to confuse the issue by saying that the respondent Corporation had increased the rent from ₹ 300/-to ₹ 3,000/- per month without any notice to them. Since the licensees defaulted in payment of agreed rent, therefore, the respondent Corporation had issued notices to them terminating their tenancy/license and demanding damages/mesne profits at the rate of ₹ 3,000/- per month on account of unauthorised possession of the shops in question. Thus, the amount demanded at the rate of ₹ 3,000/- per month was not on account of enhanced rent, and the submission made by learned counsel for the appellants in this regard cannot be sustained.

11. For the reasons recorded above, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge, upholding the orders of the authorities below under the Public Premises Act.

12. Consequently, all the appeals are dismissed.

(RAMENDRA JAIN)
JUDGE

August 23, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes