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

CWP-17311-1996

Date of decision : 16.03.2017

Municipal Committee, Sunam

... Petitioner(s)

Versus

Commissioner (Appeal), Patiala Division and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: None for the petitioner.

Ms. Lavanya Paul, AAG, Punjab.

Mr. Amarjit Markan, Advocate
for respondent Nos.3 & 4.

AMIT RAWAL, J. (ORAL)

The petitioner-Municipal Committee, Sunam, is aggrieved of the impugned order rendered by the Commissioner in a proceeding initiated under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short 'the 1973 Act'), whereby the appeal filed on behalf of the private respondent(s) against the order of the Collector has been allowed/accepted.

The contention of the private respondent(s) before the Authority was that the land is/was recorded as *shamlat deh*, therefore, would not fall under the public premises. Though the eviction order was passed by the Collector, but the Commissioner in the appeal has set aside the order on the ground that the Collector had not gone into the matter with

regard to the nature and character of the property as to whether, it would fall within the definition of public premises or not.

Even otherwise, in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in “*Sarjiwan Tiwari V/s Punjab State Electricity Board*” 1998 (2) RCR (Civil) 2, in a proceeding initiated under the 1973 Act, particularly when the nature and character of the property having been fallen within the definition of public premises is raised, the issues are required to be framed.

Keeping in view aforementioned facts, I deem it appropriate to dispose of the present writ petition with liberty to the petitioner to file fresh proceedings and in case, such fresh proceedings are filed, the Collector shall frame the issues and give the opportunity to the parties to lead evidence in support of their respective pleadings and decide the matter in a most pragmatic and reasonable manner.

Disposed of, accordingly.

Let this order be sent to the Executive Officer, Municipal Committee Sunam for compliance.

16.03.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**