

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

CWP-1743-2004 (O&M)

Date of decision:- 11.10.2017

Raja Ram Mohan Roy Education Foundation Society, New
Delhi.

...Petitioner

Versus

State of Haryana

...Respondent

COCP-1262-2006 (O&M)

Raja Ram Mohan Roy Education Foundation Society, New
Delhi.

...Petitioner

Versus

M.P. Bidlan, Assistant Superintendent, Govt. Animal
Husbandry, Hisar and another.

...Respondents

CR-8346-2014 (O&M)

State of Haryana

...Petitioner

Versus

Raja Ram Mohan Roy Education Foundation Society
(Registered).

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Akshay Bhan, Senior Advocate,
with Mr. Divanshu Jain, Advocate,
Mr. Gurminder Singh, Senior Advocate,
with Mr. R.V.S. Chugh, Advocate,
for the petitioner in CWP-1743-2004 & COCP-1262-2006,
and for the respondent in CR-8346-2014.

Mr. R.K.S. Brar, Additional Advocate General, Haryana,
Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the petitioner in CR-8346-2014,
and for the respondents in CWP-1743-2004 & COCP-1262-2006.

* * * *

S.J. VAZIFDAR, C.J. (ORAL)

The three proceedings require a consideration of the same facts and are, therefore, disposed of by this common order and judgement. We will, however, refer to the parties as they are arrayed in the writ petition.

2. A letter of allotment dated 18.01.1984 was issued by the respondent in favour of the petitioner allotting a plot admeasuring 02 acres 07 kanals for an institute of vocational studies being run and managed by the petitioner. Thereafter, the parties had entered into a formal agreement dated 02.12.1986 clauses 4 and 16 whereof read as under:-

"4. The land is transferred subject to the condition that it will be constructed or put to use for the purpose already indicated within a period of five years, failing which it would be resumed.

16. All disputes and differences arising between the parties out of or in any way touching or concerning this agreement whatsoever shall be referred to the sole arbitration of a person to be nominated by the parties to this agreement by mutual agreement. It is desirable that D.C. Hissar may be nominated for this purpose."

(emphasis supplied)

3. The possession was handed over to the petitioner on 11.12.1989. The petitioner's case is that the building plans were sanctioned on 12.02.2002. The respondents by a letter dated 20.02.2003 informed the petitioner that it had failed to put the land to use as per the agreement even after a lapse of nineteen years; that the land was vacant and that the State Government had, therefore, by its letter dated 20.01.2003 ordered that the land be taken back. The petitioner was called upon to return the land stating that otherwise recourse to the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 would be taken.

4. On 20.03.2003, the petitioner filed a suit for permanent injunction restraining the respondents from disturbing its possession. An application for interim relief was rejected by an order dated 03.09.2003. The suit was ultimately withdrawn on 11.10.2003 with liberty to file another suit. During the pendency of the suit, a notice dated 18.07.2003 was served upon the petitioner calling upon it to show cause why the land ought not to be resumed. The petitioner contends that this show cause notice was sent to the wrong address as a result whereof it was unaware of the same. Consequently, the resumption proceedings were conducted without the petitioner being heard. An order of resumption was passed on 25.08.2003. As we mentioned earlier, the suit was withdrawn on 11.10.2003 with liberty to file a fresh suit.

5. Instead of filing a suit, the petitioner filed the present writ petition challenging the order of resumption. On 02.02.2004, an interim order was passed restraining the respondents from dispossessing the petitioner. The petitioner's grievance is that despite the interim order, the respondents dispossessed it which led to its filing an FIR on 06.09.2006. On 19.09.2006, the petitioner also filed the above COCP-1262-2006 alleging that the respondents had committed contempt of the order dated 02.02.2004. The contempt petition was admitted and was ordered to be heard alongwith the above writ petition.

6. Thereafter, the petitioner invoked the arbitration agreement set out earlier. By a letter dated 28.12.2007, the respondents purported to appoint an arbitrator. The arbitrator passed an interim award on 20.05.2009. The petitioner contends that this was a final award and not an interim award. It is not necessary for us to express any view on that issue as the petitioner does not press that point. The petitioner has agreed as have the respondents to refer the disputes in respect of the said agreement dated 02.12.1986 to arbitration. The said award dated 20.05.2009, therefore, loses force. In any event, it was

limited in period of time. That time has expired and the award, therefore, is of no consequence as on date.

It is also not necessary to refer to the execution application filed by the petitioner to enforce that award which was allowed on 27.10.2014. The above CR-8346-2014 is filed by the official respondents challenging the award dated 20.05.2009. In view of what is stated earlier, it is not necessary to consider the same. As stated earlier, the award has lost all force.

CR-8346-2014 is disposed of with no orders thereon except to record that the award dated 20.05.2009 is not pressed by the petitioner and is of no effect.

7. The parties have agreed to refer the disputes and differences in respect of the allotment letter dated 18.01.1984 and the agreement dated 02.12.1986 including as to the validity of the resumption order to arbitration. It is not necessary, therefore, to decide these issues which are the subject matter of the writ petition. CWP-1743-2004 is accordingly disposed of by recording that the disputes and differences shall be decided by the arbitrator.

8. This leaves for consideration COCP-1262-2006. The petitioner contends that the official respondents took forcible possession of the land despite the stay order dated 02.02.2004. The land is still available. The petitioner's rights in respect thereof would be determined in arbitration. The respondents' case is that they had already taken possession of the land before the stay order dated 02.02.2004 and in any event before they were made aware of the said order. In any event, the respondents do not appear to have taken possession with a view to committing contempt of the orders of this Court. They have not dealt with the property subsequently to the prejudice of the petitioner. Considering the facts and circumstances of the case, we do not consider it necessary to take any action for contempt.

COCP-1262-2006 is accordingly dismissed.

9. The above proceedings are disposed of accordingly. Further, it is recorded that the parties have agreed to refer the disputes and differences in respect of the said letter of allotment dated 18.01.1984 and the agreement dated 02.12.1986 including the issue of the validity of the resumption order to the sole arbitration of Mrs. Justice Raj Rahul Garg, a former Judge of this Court. It is ordered accordingly.

The parties, however, shall be entitled to make an application under Section 17 of the Arbitration and Conciliation Act, 1996 for the purpose of interim reliefs in respect of the said land. Till and subject to any orders that may be passed in such an application, the parties shall maintain status quo in respect of the said land and the construction thereon.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

11.10.2017
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No