

CWP Nos.17489 & 17513 of 2017

[1]

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

(1) **CWP No.17489 of 2017**
Date of decision:03.10.2017

Ashwani Dhawan ...Petitioner

Versus

Haryana Tourism Corporation and others ...Respondents

(2) **CWP No.17513 of 2017**
Date of decision:03.10.2017

Ashwani Dhawan ...Petitioner

Versus

Haryana Tourism Corporation and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Deepak Girotra, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of two petitions bearing CWP Nos.17489 and 17513 of 2017 as the issue involved in both the petitions is the same. However, the facts are being extracted from CWP No.17489 of 2017.

The petitioner is the son of J.N.Dhawan, who was earlier licensee of respondent no.1. He died on 03.01.2005 and, thereafter, on 06.04.2005, the petitioner was asked to vacate the demised premises as he was found to be in unauthorized possession after the demise of his father as the license is not heritable. Thereafter, respondent no.1 filed a petition under Sections 4, 5 & 7 of the Haryana Public Premises and Land (Eviction & Rent Recovery) Act, 1972, seeking ejectment of the petitioner and also for recovery of license fee @ ₹5,000/- per month from 03.01.2005 with interest. It is recorded in the impugned order that the petitioner offered the rent of the shop in question from

03.01.2005 @ ₹5,000/- per month along with 12% interest through a cheque but the said cheque was not encashed.

The only argument raised by counsel for the petitioner is that earlier, when his father was in possession of the shop in question, he was paying ₹3,000/- per month as licensee fee, therefore, the petitioner is also liable to pay ₹3,000/- per month instead of ₹5,000/- per month.

Counsel for the petitioner further submits that the rent of ₹3,000/- per month was being paid by his father in terms of an order passed by the Supreme Court and has submitted that the respondents should have re-fixed the license fee in case they wanted to revise the same, which has not been done by them.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that father of the petitioner was in authorized possession as a licensee and after his demise, possession of the petitioner became unauthorized as no new license was issued in his favour. He himself had tendered the rent @ ₹5,000/- per month along with 12% interest after 03.01.2005 through a cheque but the said cheque was not encashed. In view thereof, it does not lie in the mouth of the petitioner that he is liable to pay the license fee @ ₹3,000/- per month, which was being charged from his father, as he himself has admitted to pay the license fee @ ₹5,000/- per month with effect from the date of death of his father.

Consequently, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

October 03, 2017
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(Rakesh Kumar Jain)
Judge

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