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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24622-2014

Date of decision : 01.05.2017

Bharat Rattan

... Petitioner(s)

Versus

The Deputy Commissioner and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. Sanjeev Sharma, Advocate
for respondent Nos.2 and 3.

AMIT RAWAL, J. (ORAL)

The grievance of the petitioner in the present writ petition is for issuance a writ in the nature of certiorari quashing the impugned order dated 16.10.2014 (Annexure P-3) passed by the learned District Collector/ respondent No.1, whereby ejectment of the petitioner from the demised shop situated in Fazilka has been ordered.

This Court vide order dated 02.12.2014 had granted the interim stay, which reads as under:-

*"Learned counsel for the petitioner contends that the petitioner is a tenant. The area falls within the urban limits of Fazilka. Learned counsel relies upon a judgment of Hon'ble Supreme Court in **Dr. Suhas H. Pophale vs. Oriental Insurance Co. Ltd., 2014(1) R.C.R.(Rent) 163** to contend that the Punjab*

Public Premises and Lands (Eviction and Rent Recovery) Act are not applicable, only provisions of Rent Act are applicable. Notice of motion for 02.02.2015.

In the meantime, status quo shall be maintained. However, petitioner shall continue to pay the rent upto date."

Mr. Sanjeev Sharma, learned counsel appearing on behalf of respondent Nos.2 and 3, has raised the objections of an alternative remedy of appeal under Section 9 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short 'the 1973 Act').

Mr. Namit Gautam, learned counsel appearing on behalf of the petitioner submits that though, the Sub-Divisional Magistrate (SDM) had been given the power of the Collector, whereas the order, under challenge, has been passed by Deputy Collector and therefore, could not have been availed.

Keeping in view the aforementioned fact, I am not in agreement with the aforementioned arguments as the Commissioner is higher in rank, though, IAS Officer has the jurisdiction to deal with the appeal under Section 9 of the 1973 Act, in respect of the matter decided under Section 4, 5 and 7 of the 1973 Act.

At this stage, Mr. Namit Gautam, learned counsel appearing on behalf of the petitioner seeks liberty of this Court to avail the remedy within a period of one month.

In case such remedy is availed, the period spent herein shall be deemed to have been condoned.

As regards the interim stay, I am of the view that interim injunction granted by this Court shall be maintained with liberty to seek further interim injunction before the Commissioner and till that application

of interim stay is decided, there shall be interim stay.

Let the interim stay application be decided within a period of one week from the date of its filing.

The main appeal be also decided within a period of four months.

Disposed of accordingly.

01.05.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No