

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

Date of decision : 23.03.2017

1. CWP No. 24009 of 2015

Ex Sep Prem Singh

..... Petitioner

versus

**The Defence Estate Officer, Ambala Circle,
Ambala Cantt, District Ambala**

..... Respondent

2. CWP No. 24017 of 2015

Ex Sub Joginder Singh

..... Petitioner

versus

**The Defence Estate Officer, Ambala Circle,
Ambala Cantt, District Ambala**

..... Respondent

3. CWP No. 24019 of 2015

Ex Hav.Gurdial Singh

..... Petitioner

versus

**The Defence Estate Officer, Ambala Circle,
Ambala Cantt, District Ambala**

..... Respondent

4. CWP No. 24025 of 2015

Jarnail Singh

..... Petitioner

versus

**The Defence Estate Officer, Ambala Circle,
Ambala Cantt, District Ambala**

..... Respondent

5. CWP No. 24027 of 2015

Jarnail Singh

..... Petitioner

versus

**The Defence Estate Officer, Ambala Circle,
Ambala Cantt, District Ambala**

..... Respondent

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. N.P.Bhardwaj, Advocate for the petitioner(s).

Ms.Ranjana Shahi, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

This order shall dispose of the above mentioned five writ petitions filed by the petitioner(s) who have been held to be in unauthorised occupation of the property in question as the said property comes under the purview of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971(hereinafter referred to as 'the Act' for short). For ready reference, facts are being taken from CWP No. 24009 of 2015.

Mr.N.P. Bhardwaj, learned counsel appearing on behalf of the petitioner submits that the petition for seeking eviction under Section 4 of the Act was bereft of the description of the property. According to him the petitioner(s) paid lease amount to the respondent, however, the title of the land could not be clarified till date merely from the reading of Military Land Register(MLR). The purpose of eviction has also not been specified. All these factors are required to be proved. No doubt issue in this case was framed but the petitioner being illiterate did not know the intricacies of the law and the alleged concession of vacating the premises is absolutely incorrect. There is no lease agreement. The title of the land cannot be decided by way of site plan and the MLR and, therefore the orders under challenge are not sustainable in the eyes of law.

Per contra, Ms. Ranjana Shahi, learned counsel appearing on behalf of the respondent submits that in the absence of any interim stay the respondent has already taken the possession. The continuation of the

possession is totally given on the points raised in the petition. It is significant that the petitioner has failed to lead any evidence despite having been given an opportunity in essence the Collector had framed the issue. Thus prays for dismissal of the petition.

In rebuttal, Mr.Bhardwaj has relied upon the ratio descended culled out by this Court in Bhagat Singh v. Delhi Development Authority, 1988 (1) RCR 670 to contend that where the notice lacks particulars of the premises, the same cannot be valid and has to be quashed.

I have heard learned counsel for the parties and perused the paper book with the assistance of learned counsel.

Notice seeking the eviction of the property has been attached as Ex. P-3 which gives the description as indicated in the impugned order which reads as under:-

- “ a) That the land measuring 4.50 acres out of ABCDE Plots, Ambala Cantt is the property of Government of India, Ministry of Defence.*
- b) That you were granted the lease of land measuring 4.50 acres out of ABCDE Plots Ambala Cantt initially for a period of 5 years from 16.7.1977 to 15.7.1982 for agricultural purpose and the said lease was further renewed for a period of 5 years from 16.7.1982 to 15.7.1987 and thereafter no lease beyond this period has been renewed and you are cultivating the defence land without having permission/sanction of the competent authority.*
- c) That the aforesaid land is required for bonafide defence purpose.*
- d) That you were asked to hand over the vacant possession of the abovesaid land on 12.1.1995 vide Defence Estates Officer, Ambala Circle, Ambala Cantt. letter No.GC-39/161/ABCDE/PF/DEO/112 dt.19.12.94, but you failed to do so.”*

The copy of the MLR has been proved on record through said Estate Officer who appeared as PW1 and proved site plan Ex. P2 and copy of the lease deed Ex.P-4 and the notice under Section 4 of the Act dated 31st December, 1999. On the contrary, the petitioner herein suffered a statement before the Court vide letter dated 31.01.2014 in which he had given undertaking to vacate the premises. It is strange that the unauthorised occupants have raised the question of fact in the appeal before the Additional District Judge as well as before this Court. Even otherwise the identity of the property cannot be in issue. Had it been so, perhaps there would have been hue and cry with regard to the identity of the property the possession of which has been taken. The order of the Additional District Judge is absolutely correct and does not call for any interference by this Court or can be said to be vitiated in law.

Petition(s) are dismissed.

**(AMIT RAWAL)
JUDGE**

March 23, 2017

sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No