

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: February 27, 2017

1. CWP No.7216 of 2012

Shiv Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

2. CWP No.12961 of 2012

Mukesh Kumar & others

...Petitioners

Versus

The Government of Haryana & others

...Respondents

3. CWP No.12946 of 2012

Lal Chand & others

...Petitioners

Versus

The Government of Haryana & others

...Respondents

4. CWP No.7217 of 2012

Kirodi

...Petitioner

Versus

State of Haryana & others

...Respondents

5. CWP No.7219 of 2012

Balwan

...Petitioner

Versus

State of Haryana & others

...Respondents

6. CWP No.7220 of 2012

Balram

Versus

State of Haryana & others

...Petitioner

...Respondents

7. CWP No.7226 of 2012

Shiv Kumar

Versus

State of Haryana & others

...Petitioner

...Respondents

8. CWP No.7237 of 2012

Matu

Versus

State of Haryana & others

...Petitioner

...Respondents

9. CWP No.7261 of 2012

Pirithi

Versus

State of Haryana & others

...Petitioner

...Respondents

10. CWP No.8326 of 2012

Rajaram

Versus

State of Haryana & others

...Petitioner

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.D.N.Ganeriwala, Advocate,
for the petitioners in eight writ petitions.

Mr.Babbar Bhan, Advocate,
for the petitioners (in CWP Nos.12961 & 12946 of 2012).

Mr.Indresh Goel, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

By this order, I intend to dispose of ten writ petitions bearing No.7216, 12961, 12946, 7217, 7219, 7220, 7226, 7237, 7261 and 8326 of 2012 as the common questions of fact and law are involved in these cases.

The aforementioned writ petitions are arising out of the orders passed in proceedings initiated under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short “1972 Act”), whereby they have been inducted as tenants of Gindhori, who had constructed the shops on land measuring 10 marlas.

Mr. D.N.Ganeriwala, learned counsel for the petitioners in CWP Nos.No.7216, 7217, 7219, 7220, 7226, 7237, 7261 and 8326 of 2012 and Mr.Babbar Bhan, learned counsel for the petitioners in CWP Nos.12961, 12946 of 2012 submit that, vide Annexure R-1, Gindhori widow of Murari Lal was handed over the property measuring 10 marlas and 1 kanal 10 marlas with stipulation that she will not sell, mortgage or gift the same. Conceded position on record is that Gindhori died in 1994. During the interregnum, she had raised the construction of shops on 10 marlas of land and a Dharamshala on remaining piece of land, i.e., 1 kanal 10 marlas. They further submit that the proceedings under the 1972 Act

were initiated against the tenants and not against the Dharamshala, thus, discriminate attitude of the State cannot go unnoticed, much less they cannot adopt the pick and choose policy. The use and occupation charges at the rate of Rs.18,000/- per annum from 1997 till handing over vacant possession have been imposed. The proceedings initiated have resulted into eviction of the petitioners and the appeal filed before the Commissioner also met with the same fate.

They further submit that vide order dated 23.4.2012 passed by this Court, the State was directed to file a short affidavit as to whether the petitioners can continue on the premises at the market rent or to explore possibility of rehabilitation. It is stated in the affidavit filed by the State that there is no existing policy, rules and as well as the guidelines or advice given by the Government for permitting the illegal unauthorised occupants to continue or for rehabilitation.

I have heard the learned counsel for the parties and appraised the paper book.

I am of the view that the status of the petitioners, after demise of Gindhori, is not of a tenant, but of unauthorised occupants and in this aspect of the matter, proceedings under the 1972 Act were initiated. Since the proceedings were initiated after lapse of considerable period of time, I am of the view that they should be given some compensation with regard to use and occupation charges, particularly the fact that the State had initiated proceedings in 2010, i.e., after sixteen years of the demise of Gindhori.

Accordingly, the orders under challenge are upheld and qua use and occupation charges, the petitioners will be liable to pay the same from the date of filing of the petitions till they hand over the vacant possession.

With the aforementioned observations, the writ petition stand disposed of.

February 27, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No