

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.22433 of 2017.

Date of Decision: September 29, 2017

Manohar Lal

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.Angrej Kumar, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner, who is resident of Ward No.7, Bawani Khera, District Bhiwani, is aggrieved by the orders dated 28.10.2016 and 03.01.2017 (P-11 & P-12, respectively) whereby he was ordered to be evicted from the land in dispute under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, 'the 1971 Act'), and his appeal against that eviction order has also been turned down. He is also aggrieved by the demolition notice dated 13.09.2017 (P-13) which has been issued pursuant to the above-mentioned eviction order.

[2] Some of the admitted facts may be briefly noticed.

[3] The land in question was earlier owned by the Municipal Council, Bawani Khera and 60 kanal out of it was transferred to the Higher Education Department, Haryana, vide mutation No.1944 sanctioned on 22.05.2012, for the construction of a Government Women College. The College has already been constructed and is functional. The petitioner and some other residents of the village have, in due course of time, raised unauthorized construction over a part of the land which was transferred to the Higher Education Department, Haryana for the construction of

Government Women College.

[4] As unauthorized constructions raised by the petitioner and other residents of the village became security threat to the safety of the girl-students, the Principal, Government Women College, Bawani Khera filed eviction petition under Sections 4 & 5 of the 1971 Act. The petitioner and other residents of the village contested those eviction proceedings raising various pleas which were turned down by the Collector by way of a well reasoned order dated 28.10.2016.

[5] The aggrieved petitioner preferred an appeal before the Commissioner, Hisar Division but the same has also been turned down.

[6] The Collector as well as the Appellate Authority have observed that the petitioner or other unauthorized occupants are liable to be ejected as there is no proper boundary wall for the security of the girls' college and it is in the public interest to remove such unauthorized constructions. Their objections that the subject land cannot be treated as Government property for the reason that it is shown as agricultural land, have also been turned down and rightly so, observing that every parcel of land has to be assigned khasra number irrespective of nature of its use. The Appellate Authority has observed that the suit land belongs to the State of Haryana and is a public property within the meaning of the 1971 Act.

[7] It has also been found that earlier the petitioner and other encroachers filed civil suit for injunction but the Civil Court declined the same on the principle that no injunction can be granted against true owners.

[8] Learned counsel for the petitioner urges that though the petitioner is in unauthorized occupation but he is entitled to purchase the suit land in terms of the decision of this Court in CWP No.13334 of 2014

(Ram Chander vs. Commissioner, Rohtak Division, Rohtak and others (P-15). We, however, do not find any merit in the contention. The cited decision is a case where eviction order was passed under the Punjab Village Common Lands (Regulation) Act, 1961 and there are Punjab Village Common Lands (Regulation) Rules, 1964, Rule 12(iv) which contain a specific provision for the sale of land to the residents of the village who have unauthorizedly constructed house, subject to fulfillment of prescribed conditions.

[9] In the instant case, these Rules are admittedly not applicable. The land does not belong to the Gram Panchayat, rather it is owned by the Haryana Government and is a public property. The eviction order has been passed under the Punjab Premises (Eviction of Unauthorized Occupants) Act, 1971 and not under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961.

[10] No case to interfere with the impugned orders is made out.

[11] Dismissed.

[SURYA KANT]
JUDGE

September 29, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No