

CWP No.3858 of 2014

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

**CWP No.3858 of 2014
Date of decision:28.04.2017**

M/s Khasla Machinery Store Sirhind ... Petitioner

Vs.

Deputy Commissioner Fatehgarh Sahib Punjab and others
... Respondents

CWP No.9861 of 2014

Gian Singh ... Petitioner

Vs.

Deputy Commissioner, Fatehgarh Sahib and others ... Respondents

CWP No.9808 of 2014

Sunil Kumar and another ... Petitioners

Vs.

Deputy Commissioner, Fatehgarh Sahib and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Swarn Tiwana, Advocate
for the petitioner(s).

Mr. J.K.Sibal, Senior Advocate with
Mr. Dhawal Bhandari, Advocate
for respondent No.3.

Mr. T.N.Sarup, Addl.A.G.Punjab.

AMIT RAWAL J. (Oral)

This order of mine shall dispose of three writ petitions bearing Nos.3858, 9808 and 9861 of 2014 filed at the instance of the petitioner(s) under the Punjab Public Premises & Land (Eviction & Rent Recovery) Act, 1973 (hereinafter referred to as “1973 Act”)

Learned counsel for the petitioner/s submits that eviction petition filed at the instance of the Market Committee, Sirhind was not maintainable as the only ground taken therein was on account of non-payment of rent. The petitioners are willing to pay rent. Though they are paying the rent but receipts are not provided to them. He further submits that even the respondents would be only letting down the premises in dispute on higher rate of rent as the petitioner/s taken the shop on lease at the rate of Rs.65/- per month from the Market Committee

On 18.04.2017, Mr. J.K.Sibal, learned Senior Counsel assisted by Mr. Sanjeev Sharma, Advocate appearing on behalf of Punjab Mandi Board had apprised this Court that the petitioner/s are not carrying out any business activity in the premises in dispute which is closed since long.

In order to determine the aforementioned factual position at the spot, I appointed Mr. Salil Sabhlok, Advocate as Local Commissioner, who has submitted his report dated 22.04.2017 and as per report, all the shops are lying closed and it is on the date of inspection, the shops are opened to demonstrate that the business had been carried out but the condition of the shop is testimony of fact that the same had not been used since long. Even the persons who had joined the inspection stated that post 2.00 p.m the kisan mandi is organized and these shops have always been closed. No

business is carried out there and they have never seen the premises open.

In view of the aforementioned report, it leaves to irresistible conclusion that the petitioner/s are not occupying the premises in dispute, thus, they are holding the same to retain the possession. It also appears that that the petitioner/s are carrying out their business being stand taken in the petition.

The orders under challenge that of the Collector and Commissioner upholding the same, in my view, are perfectly legal and justified and cannot be said to be vitiated in law and fallen within the realm of judicial review.

For the reasons aforementioned, the orders under challenge are upheld. Accordingly, the writ petition stands dismissed.

At this stage, learned counsel for the petitioner/s has brought to the notice of this Court that in compliance of the order of this Court passed in CWP No.9861 of 2014, petitioner has deposited a sum of ₹7500/-. The same is ordered to be refunded to the petitioner.

(AMIT RAWAL)
JUDGE

April 28, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No