

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.2622 of 2017

Date of Decision.14.02.2017

Gobind Ram

.....Petitioner

Vs

The Estate Officer and another

.....Respondents

Present: Mr. Padamkant Dwivedi, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned orders (Annexures P-6 and P-8) rendered by the Estate Officer and upheld by the Additional District Judge in proceedings initiated under the Public Premies (Eviction of Unauthorized Occupants) Act, 1971.

The contention of Mr. Dwivedi, learned counsel appearing on behalf of the petitioner is that he is lawful occupier of Bungalow No.154, Sant Lal Road, Ferozepur Cantt., District Ferozepur, alleged to have purchased from one Mool Chand vide sale deed dated 15.11.1985 (Annexure P-1). The Junior Engineer of Cantonment Board submitted report to the CEO dated 21.12.2012 with regard to the alleged misuse of the public premises noticing that the petitioner is stated to have installed/erected tower on a truck in the land belonging to the State.

He submits that in fact as per the photographs (Annexure P-9 colly), the mobile tower is installed on the back of the vehicle which is lying parked in the private premises, therefore, the Estate Officer did not have any jurisdiction to try the petition under the aforementioned provisions

document for violation of the aforementioned provisions of the Act. The Estate Officer did not have the jurisdiction to try the petition, thus, the orders under challenge are sketchy and mechanical, much less, cryptic and are liable to be set aside.

I have heard learned counsel for the petitioner and appraised the paper book. The moment the petition under the aforementioned provisions is filed, the onus immediately shifts upon the alleged unauthorized occupier to establish whether the premises are public or private. The petitioner failed to lead any evidence, in essence, the demarcation report or moving any application for production of material to establish ownership. In the absence of the application for production of documents qua ownership, the finding rendered by the Court below with regard to premises in public cannot be ruled out. Even otherwise, the failure on the part of the petitioner in establishing the ownership/possession of the aforementioned premises was itself a pointer that the tower was not erected on private land. No person is permitted to encroach upon a private land and indulge into illegal activities. Even the photographs did not prove the placement of the tower on private premises.

For the reasons aforementioned, the orders under challenge are perfectly legal and justified and I do not intend to differ with the same. No ground for interference is made out. The writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

February 14, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No