

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

CWP No.28817 of 2017 (O&M)

Date of Decision: 20.12.2017

Virendra Kumar Bhatnagar

. . . . Petitioner

Vs.

Municipal Corporation of Gurugram and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashish Chopra, Advocate,
for the petitioner.

Mr.Lokesh Sinhal, Advocate,
for the respondent/caveator.

RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 11.9.2017 passed by the Joint Commissioner-III, Municipal Corporation, Gurugram and order dated 3.11.2017 passed by the Commissioner, Municipal Corporation, Gurugram by which his appeal filed under Section 408B of the Haryana Municipal Corporation Act, 1994 [for short 'the Act'] has been dismissed.

In brief, the petitioner was served with a notice under Section 408A(1)(b) of the Act on 1.8.2017 alleging that he is in unauthorized possession of land measuring 10 acres, forming part of Khasra No.457, situated in the revenue estate of Sikanderpur Ghosi, Gurugram. The petitioner submitted his reply alleging his possession to be legal and authorized on the ground that the land was given to him on lease by the Gram Panchayat, Sikanderpur Ghosi, Gurugram in 2003 for a period of 5

years and thereafter from the year 2008 to 2013 which came to an end on 26.3.2013. The village Sikanderpur Ghosi was included within the limits of Municipal Corporation, Gurugram vide notification dated 2.6.2008 and after the termination of lease on 26.3.2013 no extension was granted by the Municipal Corporation, Gurugram. The petitioner had filed a civil suit for seeking permanent injunction which was decreed on 29.1.2014 restraining the Municipal Corporation, Gurugram for taking possession without adopting due course of law and the said order was upheld in appeal decided on 25.1.2017. Thereafter notice was issued under Section 408A(1)(b) of the Act on 1.8.2017 in which the impugned order was passed on 11.9.2017 against which the petitioner filed the statutory appeal before the Commissioner, Municipal Corporation, Gurugram.

Learned counsel for the petitioner has submitted that after the lease was terminated, action could have been taken only under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 [for short 'the Act of 1972'] and not under the provisions of the Act. Although, learned counsel for the petitioner has vehemently argued his case but has failed to make a substantial submission for persuading this Court to take a view different from the view taken by the Commissioner, Municipal Corporation, Gurugram in his impugned order. The provisions of the Act of 1972 are not at all applicable as the property vests within the limits of Municipal Corporation, Gurugram for which they have rightly initiated proceedings in terms of Section 408 of the Act to recover possession from the petitioner, who is in unauthorized possession from the last four years.

Consequently, finding no merit in the present petition, the same is hereby dismissed though without any order as to costs.

20.12.2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No