

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

CWP No.6672 of 2017

Date of Decision.29.03.2017

Suresh Kumar Kharab

.....Petitioner

Vs

Union of India and others

.....Respondents

Present: Mr. R.P. Dangi, 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 order dated 31.01.2017 (Annexure P-20) passed by the Estate Officer and decision rendered by the Additional District Judge, Chandigarh in Civil Appeal No.12 of 2017 dated 18.03.2017 in pursuance of the proceedings initiated under Section 4 (1) (2) (b)(ii) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and sub-section 1 of Section 5 of the aforementioned Act.

The contention of learned counsel appearing on behalf of the petitioner in the present writ petition is that by virtue of allotment letter dated 06.03.2014, house bearing No.599-A, Type V was allotted to the petitioner being Chief General Manager, National Buildings Construction Corporation Ltd., MDC, Sector 4, Panchkula by Survey of India. It was an ad hoc allotment. However, the aforementioned allotment, according to the petitioner, as per Annexure P-5 dated 26.04.2012, was done by Government of India, Ministry of Urban Development, Directorate of Estates on the subject of utilization of surplus/vacant houses of General Pool Residential

years and the same could be renewed after five years, in essence, he submits that the allotment made in 2014 could not have been cancelled in 2016 vide impugned letter dated 17.10.2016 (Annexure P-1) whereby the petitioner had been given 30 days time to vacate the premises as the house was to be allotted to an eligible officer, in essence, the allotment was cancelled.

He submits that period of five years has not elapsed and therefore, allotment could not be cancelled, thus, public premises proceedings initiated were wholly vitiated and without jurisdiction. The conditions imposed in the allotment letter were not in consonance with the letter (Annexure P-4) and therefore, the conditions could not have been imposed as they were against the letter (Annexure P-2), thus, the order of eviction is totally erroneous and vitiated.

I have heard learned counsel for the petitioners and appraised the paper book. In pursuance of the allotment letter, the petitioner has acknowledged the allotment letter without any demur vide letter dated 12.03.2014 (Annexure P-9) which reads as under:-

“To

*The Director,
Punjab, Haryana and Chandigarh GDC
Chandigarh.*

Sub: Allotment of Govt. Accommodation.

Sir,

*I hereby accept the government accommodation/house No.599-
A duly allotted to me vide letter No.ES-125/13-H/SOI Estate
dated 06.03.2014.*

Yours sincerely,

-sd-

*Suresh Kumar Kharab
General Manager, NBCC
Chandigarh Zone*

*Place: Chandigarh
Dated:12.03.2014”*

The Government employee, who has been in occupation of Government accommodation cannot retain the premises beyond the period.

The proceedings under Section 4 of the Act of 1971 were initiated by giving show cause to the vacate the premises but the petitioner did not vacate. Resultantly, the order dated 31.01.2017 (Annexure P-20) was passed by the Superintending Surveyor, PHC GDC i.e. Estate officer calling him to vacate the premises within 5 days from the date of issuance of the order, failing which the premises would be taken forcibly as per the procedure laid down in the Act of 1971.

The aforementioned order was assailed by filing an appeal before the Additional District Judge, who vide order dated 18.03.2017 (Annexure P-21) dismissed the same.

The contention of the counsel is that the Survey of India Estate Rules had not been adhered to, in essence, reasonable opportunity of being show cause against the proposed action has not been given. There is no substance in the aforementioned contention, as the premises belongs to the Survey of India and the petitioner is an employee of National Buildings Construction Corporation Ltd, which is a Government enterprise and not official of Survey of India. Allotment to the petitioner made in a special case in terms of memorandum dated 26.04.2012 (Annexure P-5) issued by Government of India, Ministry of Urban Development, Directorate of Estates, Nirman Bhawan, New Delhi. In fact, the letter pertains to utilization of surplus and vacant houses and does not specify a particular house number. In fact, the case of the respondents had been that the house in question is of general pool and had been constructed for the employees of Survey of India. It was an ad hoc allotment made to the petitioner. If the

prescribed period of allotment for five years is taken into consideration, it would be stated that the person can continue for infinite period, particularly when the house was not in the department pool of the National Buildings Construction Corporation Ltd. An effective opportunity had been given to the petitioner before initiating the proceedings under Section 4 of the Act of 1971. The petitioner had contested the matter but lost and still chose to come to this Court for further contest.

At this stage, the petitioner has requested for granting two months' time to vacate the premises. The request of the petitioner is acceded to. Time for eviction is two months, provided he pays market rent and clear the damages, if any, within a period of 10 days from the date of receipt of certified copy of this order.

For the reasons aforementioned, the orders under challenge cannot be said to be arbitrary, opaque, much less, vitiated in law. No ground for interference is made out. The writ petition is dismissed.

(AMIT RAWAL)
JUDGE

March 29, 2017
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No