

Civil Revision No.13 of 2018

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

Civil Revision No.13 of 2018
Date of decision: 09.01.2018

Gurmukh Singh

.....Petitioner

versus

Municipal Committee, Nissing and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Govind Chauhan, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Article 227 of the Constitution of India challenge has been laid to order dated 24.01.2017 (Annexure P-12) of the trial Court, Karnal, and order dated 08.11.2017 (Annexure P-13) of the learned Additional District Judge, Karnal, whereby application of the petitioner under Order 39 Rules 1 and 2 CPC (Annexure P-10) was dismissed.

Learned counsel for the petitioner contends that the respondents cannot evict the petitioner from the disputed site except in due course of law in view of statements (Annexures P-4 and P-5) given by the officials of respondent No.1 in a contempt petition filed by the petitioner. The ejectment proceedings initiated by respondent were adjourned *sine die* by the Collector on account of its non-appearance. Therefore, the trial Court has wrongly dismissed the stay application of the petitioner. Respondents be restrained from evicting the petitioner except in due course

After giving thoughtful consideration to the submissions made

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by learned counsel for the petitioner, I find the instant petition completely devoid of any merit for the reasons to follow.

Undisputedly, the petitioner is not the original owner of the disputed property, rather is an encroacher upon the same. He is wrongly and illegally claiming himself to be the owner of the same in the present suit.

More-so, the respondents are not evicting the petitioner unauthorisedly and illegally inasmuch as a notice under Section 181 of the Haryana Municipal Act has already been issued to the petitioner asking him to remove his illegal encroachment from the suit property within a period of seven days. Therefore, it cannot be said by any stretch of imagination that respondent No.1 or its officials are evicting the petitioner unauthorisedly and illegally. They have also filed the ejectment proceedings against the petitioner before the Collector.

I have gone through the impugned orders of the trial Court as well as the First Appellate Court and find the same perfectly legal and accordingly uphold the same.

In view of the discussion above, petition is dismissed with costs of ₹ 2,000/- to be deposited with the District Legal Services Authority, Karnal.

Copy of this order be sent to the Member Secretary, District Legal Services Authority, Karnal, for recovery of the costs.

January 09, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.