

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

176

CIVIL WRIT PETITION NO.18610 OF 2018

DATE OF DECISION: JULY 30, 2018

Satpal Jain and another

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

**Present: Mr. Ivneet Singh Pabla, Advocate,
for the petitioners.**

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 07.03.2003 (Annexure P-1) passed by the Collector, Narwana, on an application filed under Sections 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short, “the 1972 Act”) for removal of illegal possession and for recovery of compensation of ₹24,000/- by Market Committee, Narwana-respondent No.5, which was allowed, vide which the petitioners were held to be in illegal possession of land measuring 83 Sq.Yards in Khasra No.761/1 and eviction order dated 12.06.2009 (Annexure P-2) was passed by the Commissioner, Hisar Division, Hisar, dismissing the appeal preferred by the petitioners vide which order, Annexure P-1 was challenged, which attained finality with the dismissal of the revision petition preferred by the petitioners before the Financial Commissioner, Haryana, vide order dated 20.10.2011 (Annexure

P-3). Challenge has also been posed to order dated 22.08.2017 passed by the Commissioner, Hisar Division, Hisar, vide which the appeal preferred by respondent No.5-Market Committee at Narwana, against the order dated 07.01.2014 (Annexure P-4) passed by the Collector was not accepted and the case was remanded back to the Collector for fresh decision in the light of the fact that objections raised by the parties to the execution petition have not been decided by the Collector and had summarily filed the execution petition.

It is the contention of learned counsel for the petitioners that the orders passed by the authorities below are not in accordance with law and are contrary to the evidence on record keeping in view the fact that the demarcation report indicates that the petitioners are not in possession of the land belonging to the Market Committee, Narwana, rather it is some other persons who are in possession thereto. He, thus, contends that the impugned orders, Annexures P-1 to P-3, being contrary to records deserve to be set-aside and consequently the order dated 22.08.2017 (Annexure P-5) passed by the Commissioner, Hisar Division, Hisar, would also go.

I have considered the submissions made by learned counsel for the petitioners and with his assistance have gone through the records of the case as well as the impugned orders.

It is not in dispute that Khasra No.761//1 was acquired by the Government of Haryana and was taken in possession, as is clear from jamabandi for the year 1978-79. The Government of Haryana, therefore, became the owner of the said land, which was transferred in the name of Market Committee, Narwana and, thus, it is covered under the definition of the “public premises”. During the pendency of the proceedings under

Sections 4,5 and 7 of the 1972 Act initiated against the petitioners and others, demarcation was carried out by the Tehsildar, Narwana, in their presence, which bears signatures of both the petitioners and it clearly shows that they alongwith others are in illegal possession of 83 Sq.Yards of land of Khasra No.761//1. The only objection which was taken by the petitioners with regard to demarcation report was that it was not done by placing fixed stones, which has been dealt with in detail by the Commissioner, Hisar Division, Hisar, in his order dated 12.06.2009 (Annexure P-2). As per the said order, the demarcation was conducted in the shape of three solid marks such as north-west corner of Khasra No.750/1, east north corner of Khasra No.750/1 and east-north and north-west corner of Khasra No.759, which solid marks were present at the time of use. The said objections of the petitioners were, therefore, rejected. The order of the Commissioner was challenged by the petitioners before the Financial Commissioner through a revision petition, which was also rejected vide order dated 20.10.2011 (Annexure P-3). This order has not been challenged prior to filing of the present writ petition and, thus, attained finality in the year 2011. Firstly there being no merit in the contentions of counsel for the petitioners with regard to the demarcation report and secondly there being inordinate delay in approaching this Court in challenging these orders, the same deserves rejection on both these counts.

As regards the challenge to the order dated 22.08.2018 (Annexure P-5), which has been passed by the Commissioner, Hisar Division, Hisar, in an appeal preferred by the Market Committee, Narwana, challenging the order dated 07.01.2014 (Annexure P-4) passed by the Collector, Narwana, including order dated 07.03.2003 (Annexure P-1) is

concerned, no illegality could be pointed out by counsel for the petitioners, especially in the light of the fact that the executing Court i.e. the Collector has totally over looked the findings as have been recorded earlier in the orders dated 07.03.2003 and 12.06.2009 (Annexures P-1 and P-2 respectively), wherein it was clearly mentioned that the petitioners were in illegal possession of the land and have inducted persons after constructing shops subsequent to the demarcation report. The objections, if any, with regard to the subsequent encroachers should have been dealt with by the Collector instead of just observing that there are certain other persons who are in possession of the land without looking into locus-standi of such persons in possession. The observations of the Commissioner, Hisar Division, Hisar, in the impugned order dated 22.08.2017 are fully justified and based upon the records. In any case vide this impugned order, the Commissioner has only remanded the case back to the Collector to further act over the execution petition as per his observations and, therefore, there is no illegality in it. It would not be out of way to mention here that the petitioners have approached this Court, challenging this order after a period of nearly one year from the date of passing of the order. On this ground also, this Court is not inclined to interfere as the intention of the petitioners is to delay the proceedings by all means.

Thus, finding no merit in the writ petition, the same stands dismissed.

July 30, 2018
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No