

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 2828 of 2013 (O&M)
Date of Decision: February 22, 2018

Prem Malhotra

... Petitioner

Versus

Regional Provident Commissioner, Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Pritam Saini, Advocate, for the petitioner.

Mr. Rajesh Hooda, Advocate, for the respondents.

P.B. Bajanthri, J. (Oral)

1. In the instant petition, petitioner has challenged the warrant of detention in civil prison dated 05.02.2013 (Annexure P/1) issued by respondent – Employees Provident Fund Organization (for short 'EPF Department').

2. One bricks industry was established on the premises of Khasra No. 37, situated in Village Malakpur, Tehsil Phagwara, District Kapurthala, in the year 1995. The original owner of brick factory transferred in the name of Arun Kumar w.e.f. 14.10.2004. It was named as “M/s Shree Ram Bricks”. Thereafter, on 16.04.2007, Sh. Raman Kumar purchased the bricks factory from Arun Kumar. It seems that it was a partnership firm in the name of Raman Kumar and his wife Mrs. Parveen. Petitioner is stated to have entered into a sale agreement of land on 14.12.2009 and land was registered on 04.11.2010 with Mrs. Parveen. It seems land was in her name.

3. In view of these facts and circumstances, whether petitioner is liable for payment of arrears of EPF, damages and penal interest amount

determined by the EPF Department or not?

4. Perusal of sale deed, it is evident that petitioner has purchased only land and not the establishment. Even though agreement to sell consists of land and establishment, it was only an agreement i.e., proposal, there is no sale deed to purchase establishment by the petitioner. Therefore, arrears of EPF were required to be paid by partnership firm which is stated to be stood in the name of Sh. Raman Kumar and his wife Mrs. Parveen. Consequently, action taken under Section 17-B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 read with Annexure P/1 against petitioner are without authority of law by the respondents – EPF Department. Unless and until establishment stand in the name of the petitioner, he is not liable to pay any arrears of EPF which is due to the firm which was stated to be run by Sh. Raman Kumar and his wife – Mrs. Parveen. Therefore, the respondents – EPF Department have committed error in issuing warrant of detention in civil prison insofar as against the petitioner. Respondents have failed to produce any material to show that establishment stand in the name of the petitioner so as to apprise the warrant of detention in civil prison issued on 05.02.2013 by the EPF Department.

5. Accordingly, warrant of detention in civil prison dated 05.02.2013 (Annexure P/1) is set aside. Writ petition stands allowed. Reserving liberty to the respondents to take appropriate action against Sh. Raman Kumar or if it is partnership, against the partners in accordance with law.

February 22, 2018
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes
Whether reportable : No