

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

Civil Writ Petition No.19590 of 2018

Date of decision: 06.09.2018

The Bhiwan Sehkar Samiti Limited, Bhiwan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. P.K.Ganga, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner society challenges the order dated 6.3.2018 (Annexure P/4) passed by respondent no.2-Commissioner, Hisar Division, Hisar whereby he has dismissed the appeal of the society while upholding the order dated 24.11.2017 (Annexure P/2) passed by respondent no.3-Collector-cum-District Revenue Officer, Sirsa whereby eviction proceedings as such were held to be not maintainable at the instance of society.

The reasoning which weighed the authorities below was that the petition for eviction under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (hereinafter referred to as "the Act") would not be maintainable and the dispossession of the private respondent which was sought under Sections 5 and 7 of the Act as such would not be tenable. The Collector keeping in mind the earlier remand order passed by the Commissioner has relied upon the judgment of the Apex Court in **S.S.Dhanoa Vs. Municipal Corporation of Delhi** AIR 1981

Supreme Court 1395 to dismiss the application on the ground of

maintainability and similarly the order has been upheld by the Commissioner.

Counsel for the petitioner has vehemently argued that the judgment would not be applicable on the question of sanction as such under Section 197 of the Indian Penal Code.

The argument as such does not cut much ice. Under Section 2 (e) of the Act “public premises” has been defined which reads as under:-

2. Definitions:- In this Act, unless the context otherwise requires:-

- | | | | |
|-----|-----|-----|-----|
| (a) | xxx | xxx | xxx |
| (b) | xxx | xxx | xxx |
| (c) | xxx | xxx | xxx |
| (d) | xxx | xxx | xxx |

"(e) “Public Premises" means, any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government, or requisitioned by the competent authority under the Punjab Requisitioning and acquisition of Immovable Property Act, 1953. and includes any premises belonging to any local authority, or District Soldier', Sailors and Airmen's Board or any university established by law or any Corporation or Board owned or controlled by the Stale Government or a Wakf registered with the Haryana Wakf Board.”

A perusal of the same would on to show that the benefit of the provisions which are for the purpose of summary eviction are only restricted to the State Government or local authorities like University/Corporation/ Board owned and controlled by the State Government.

Therefore, the petitioner which is a society as such cannot take the benefit of the summary proceedings to evict a person in possession of its land. The Apex Court also in **S.S.Dhanoa's case** (supra) while dealing with

the issue has held that a Cooperative society was not a Corporation

established by or under an Act of the Central or State Legislature and therefore the protection claimed on ground of being a public servant was denied. The relevant part reads as under:-

“In our opinion, the expression 'corporation' must, in the context, mean a corporation created by the Legislature and not a body or society brought into existence by an act of a group of individuals. A cooperative society is, therefore, not a corporation established by or under an Act of the Central or State Legislature.”

The said portion thus fairly covers the question in controversy.

In such circumstances, the findings which have been recorded by the authorities below would not be liable to be interfered with as such and thus finding no merit, the present writ petition is dismissed in limine. However, it is always open to the society to seek its remedy in accordance with law before a Court of competent jurisdiction.

06.09. 2018

Pka

(G.S.SANDHAWALIA)

Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No