

C.W.P. No. 8869 of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 8869 of 2018

DATE OF DECISION:16.04.2018

Balbir Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. GS Verma, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of certiorari for setting aside impugned order dated 6.4.2004 (Annexure P-1) passed by Collector, Sub Division, Budlada, District Mansa, whereby, rent of shop allotted to the petitioner has been assessed as well as order dated 8.1.2018 (Annexure P-2) passed by respondent No.4, whereby, objections filed by the petitioner in the execution proceedings have been rejected and warrant for possession has been ordered. A further prayer has also been made for quashing of order 29.1.2018 (Annexure P-3) passed by Deputy Commissioner, Mansa, whereby, the appeal filed by the petitioner against order of dismissal of objections, has also been dismissed.

Briefly, the facts of the case as made out in the present petition are that Municipal Council, Budlada constructed some shops in the area of

Nagar Council in the year 1997. The petitioner was allotted shop bearing shop No. 6 against certain terms and conditions and since then the petitioner is in possession of that shop. As per terms and conditions of the allotment, an amount of ₹25,000/- was to be paid by the allottee in two installments and thereafter the possession was to be handed over to successful bidder/allottee.

When the rent was not paid, an application was filed by respondent No.5 under Sections 4,5 and 7 of Public Premises Act, 1975 for payment of balance rent or to vacate the shop. The Collector, Sub Division, Budhlada vide its order dated 6.4.2004 ordered the petitioner to deposit the rent of the shop in dispute at the rate of ₹31,00/- per month w.e.f. 31.12.1997, failing which, Municipal Council, Budhlada would be entitled to take over the possession from the petitioner. When order dated 6.4.2014 was not complied with, an execution application was filed by the Municipal Council, Budhlada under Order 21 Rule 11 CPC for compliance of order dated 6.4.2004 and for recovery of an amount of ₹3,47,200/-, which was allowed. The executing Court ordered to take warrant of possession of the shop in dispute for compliance of order dated 6.4.2004. Aggrieved by said order, the petitioner preferred an appeal before the Deputy Commissioner, Mansa, which was also dismissed. Orders dated 6.4.2004, 8.1.2018 and 29.1.2018 are subject matter of challenge in the present petition.

Learned counsel for the petitioner submits that the petitioner is in possession of the shop in dispute since 31.12.1997 and has also invested huge amount. The petitioner has been directed to vacate the shop in dispute after a gap of 12 years. Learned counsel further contends that the petitioner is ready to deposit the amount claimed by the respondent-Municipal

Council, Budhlada in case liberty is given to him to deposit the amount.

Heard the arguments of learned counsel for the petitioner and have also gone through the impugned orders and other documents available on file.

Admittedly, the shop in dispute was allotted to the petitioner by Municipal Council, Budhlada against certain terms and conditions. The petitioner remained in possession of said shop since 31.12.1997. Respondent No.5 filed an application before the Collector, Sub Division, Budhlada under Sections 4,5 and 7 of Public Premises Act, 1975 for payment of balance amount of rent or vacation of shop from the petitioner. The Collector allowed the application vide its order dated 6.4.2004 and directed the petitioner to deposit at the rate of ₹3100/- per month to Municipal Council as rent from the date of possession i.e. 31.12.1997 failing which the possession over the shop in dispute was to be taken over by the Municipal Council. Thereafter an execution application was filed by respondent No.5 under Order 21 Rule 11 CPC for compliance of order dated 6.4.2004 and for recovery of amount of ₹3,47,200/-, which was allowed and warrant of possession of shop in dispute was issued. Aggrieved by said order, the petitioner filed an appeal before Deputy Commissioner, Mansa, which was also dismissed. The impugned orders have been challenged only on the ground that the petitioner is in possession of the shop in dispute since 31.12.1997 and is ready to deposit the amount as claimed by the respondents. Admittedly, the petitioner has not paid any rent w.e.f. 31.12.1997. The petitioner himself has admitted before the Deputy Commissioner, Mansa that he is running a shop since allotment and no amount has been deposited. Objections filed by the petitioner in execution

petition were dismissed vide order dated 8.1.2018 after hearing counsel for the parties. Subsequently, the appeal filed by the petitioner against order of dismissal of objections were also dismissed. Admittedly, the petitioner has neither challenged order dated 6.4.2004 by way of filing appeal/revision before the authorities below and has approached directly to this Court. The amount as ordered by the Collector has also not been deposited by him. Even the order of rejection of objection was not challenged. The conduct of the petitioner itself shows that he was not interested in making the payment of rent in spite of order passed in his favour even after filing of execution petition.

Accordingly, there is no merit in the arguments advanced by learned counsel and the present petition being devoid of any merit is hereby dismissed.

April 16, 2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes