

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

CWP No.6510 of 2000

Date of Decision:30.04.2019

Municipal Council, Faridkot

...Petitioner

Versus

The Commissioner, Faridkot Division, Faridkot and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner

Ms.Akshita Chauhan, AAG Punjab

Mr.Kulvir Narwal, Advocate for
Mr.R.K.Dhiman, Advocate
for respondents No.3 and 4

RAJIV NARAIN RAINA, J. (ORAL):

This petition filed by the Municipal Council, Faridkot, challenges partially the order of the Collector passed in an application under Section 4 and 5 of the Punjab Premises Eviction and Land (Rent Recovery) Act, 1973 (for short, 'the Act'), which takes a lenient view after evicting the respondents from land admeasuring 13'x21' feet leased out to the respondents by the Council at a monthly rent of Rs.100/- from 01.04.1995 to 31.03.1996 by directing the Municipal Council, Faridkot to offer an alternative shop site on reserved price to the respondents in place of the leased property. The lease was not extended after expiry of one year. The respondents had held over the plot. This order has been confirmed by the Commissioner, Faridkot Division, Faridkot. As a result of which the

respondents are not held entitled to any rights in the disputed land which had to face demolition due to widening of the road.

The lease expired on 01.04.1996 and it is thus urged by Mr. Narwal appearing for private respondents No.3 and 4 that his clients have to be legally treated as holding over after the expiry of the lease. It is not disputed that the respondents have at their own expense, upon notice issued under the Act, have demolished the illegal construction of a shop and removed the *malba* long ago leaving the land vacant for widening of the city road. This conduct is an admission of the assertion of the Municipal Council that the respondents had made illegal construction over the plot of land without due permission obtained from the building branch of the Municipality at Ferozpur. The respondents 3 and 4 have accepted the eviction order as they have not challenged it.

The Municipal Council has strongly assailed the direction of the Collector and the Commissioner in this petition, and rightly so, calling upon the municipality to offer alternative site nearby the shop in question as a direction which is patently unconstitutional, contrary to the provisions of the PP Act and without jurisdiction.

It has been recorded in the order dated 16.08.2001 by the Division Bench of this Court after hearing learned counsel for the parties that they were prima facie of the view that the direction given by the Deputy Director, Local government, Ferozpur, in the order (Annex P2) that the Municipal Council, Faridkot shall allot plot to respondents No.3 and 4 on reserve price near the land from which they have been evicted, are wholly without jurisdiction. It has been observed in the interim order that such power does not vest in the Deputy Director, Local Government, under the

Act. The Collector exercises statutory powers granted under the Act and does not have any inherent powers to issue directions of the kind made. At the time when the order was passed, learned counsel for the private respondents had taken time to find whether there is any policy in vogue with regard to allotment of alternative plots to persons who have been evicted from the land which was leased to them by the Municipal Council. By the subsequent order dated 03.09.2001, the petition was admitted and the operation of the impugned order insofar as it relates to allotment of alternative sites to respondents No.3 and 4 was stayed. The interim order has continued to operate till today. Obviously, file speaks that no material was placed on the record of the case to show existence of any policy by which alternative sites could be allotted at reserve price.

Counsel for the private respondents argues that the municipality did not challenge the order of the Collector by way of an appeal. This argument is only noticed to be rejected since the order of the Collector has merged in the order of the Commissioner and not only that is under challenge but also the order of the Collector in the instant petition.

I find substantial merit in the petition. The reasoning in the interim order dated 16.08.2001 passed by the division bench sums up the case and is confirmed and made absolute.

It follows that the petition must succeed and is allowed. The impugned direction to allot alternative plot is quashed.

30.04.2019

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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes
Yes/No