

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

122

Civil Writ Petition No.12419 of 2019
Date of Decision: July 9th, 2019

I.P.S. School at Kalanaur, District Rohtak

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

Mr. Manish Dadwal, Assistant Advocate General, Haryana.

Mr. Rajesh K. Sheoran, Advocate
for respondents No.2 and 3.

Mr. Jai Bhagwan, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 03.04.2019 (Annexure P-6) passed by the Commissioner, Rohtak, confirming and upholding the order dated 06.11.2018 (Annexure P-5) passed by SDO (Civil), Rohtak-respondent No.6 allowing the application preferred by the Municipal Committee, Kalanaur, District Rohtak, under Sections 4, 5 and 7 of the Haryana Public Premises Land (Eviction) Act, 1972.

When the case came up for hearing on 10.05.2019, following order was passed:-

“Counsel for the petitioner prays for an adjournment to file an affidavit and undertaking on behalf of the petitioner that a fresh demarcation be carried out of the land in possession of the petitioner vis-a-vis the alleged land which is encroached upon by the petitioner and in case the petitioner is found to be in illegal possession of any piece of land, vacant possession thereof will be handed over to the

respondents within a period of 15 days from the date of receipt of the demarcation report.

*List on **14.05.2019.***

and in pursuance thereto, on filing of the said affidavit, counsel for respondents 2 and 3 was called upon to seek instructions from the respondents as the counsel for the petitioner stated that the petitioner was ready to hand over the vacant possession of adjacent land in lieu of the land, on which the encroachment has been found. Thereafter on 16.05.2019, counsel for the Municipal Committee, Kalanaur, had sought time to seek instructions. Case was taken up for hearing on 22.05.2019, when the following order was passed:-

“Learned counsel for the petitioner states that he has moved an appropriate application to the Municipal Committee, Kalanaur, on 17.05.2019. Copy of the said application has been handed over to Mr. Rajesh K. Sheoran, counsel for respondent No.3.

Mr. Sheoran has also referred to a communication dated 17.05.2019 sent by the Municipal Committee, Kalanaur, to the Principal Secretary to Government of Haryana, Department of Urban Local Bodies, Haryana, for consideration of the request of the petitioner for exchange of the land.

Three copies of the writ petition be handed over to the counsel for the State during the course of the day under proper receipt, who shall thereafter seek instructions with reference to the communication dated 17.05.2019 referred to above.

Let the amount be paid in toto, as has been assessed by the Municipal Committee, within a period of two weeks from today.

Status quo with regard to the structures be maintained till the next date of hearing or a decision is taken by the Government, whichever is earlier.

*List on **05.07.2019.***

It is made clear that if within the time stipulated, the

amount is not deposited by the petitioner with the Municipal Committee, the status quo order as passed by this Court shall cease to operate on expiry of the said period.”

On 05.07.2019, learned counsel for the petitioner was in some personal difficulty, however, the counsel for respondent No.3 informed the Court that in compliance with the order passed by this Court on 22.05.2019, petitioner has not deposited the amount of ₹28,76,368/-, which was due upto December 2018. Although the Court has clarified that the order dated 22.05.2019, whereby *status quo* order was granted, stood automatically vacated with effect from 06.06.2019 because of the non-compliance of the said order. Counsel for respondent No.3 was orally directed not to take further action as the counsel for the petitioner was not present in Court on the said date, which oral observation of this Court has been honoured by respondents 3 and 4.

Today also, counsel for the petitioner states that the amount which was required to be deposited by the petitioner, has not been so deposited.

In view of the above and keeping in view the conduct of the petitioner, which despite having encroached upon the land and have used the said land, has failed to deposit the usage charges, equity does not favour the petitioner and, therefore, the writ petition deserves dismissal as the Court does not find any merit in the writ petition for the reasons that the impugned orders passed by the authorities are well reasoned and based upon the revenue records.

The writ petition is, therefore, dismissed.

July 9th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE