

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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CWP-14988-2018

Date of decision: 09.01.2019

SUKHDEV RAJ AND OTHERS

...PETITIONERS

VS.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Pal Singh Rehan, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Petitioners have approached this Court challenging the order dated 23.01.2015 (Annexure P-3) passed by the Sub-Divisional Magistrate-cum-Collector, Gurdaspur, whereby the application filed by the Sub-Divisional Officer, U.B.D.C. Aliwal Sub-Divisional, Aliwal, Tehsil Batala, District Gurdaspur under Section 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 has been allowed ordering eviction of the petitioners on the ground of non-payment of rent and for quashing of the order dated 08.02.2018 (Annexure P-4) passed by the Deputy Commissioner-cum-Commissioner, Gurdaspur, whereby appeal preferred by the petitioners stands dismissed.

It is the contention of the learned counsel for the petitioners that the orders passed by the Courts below deserve to be set aside in the

light of the fact that the petitioners have regularly paid rent up to the year 2000 and also ready and willing to pay the same now. He contends that the land in dispute in any case has to be again given on lease or on auction by the respondents and the petitioners are ready to pay the market rent/auction money, therefore, they may not be dispossessed from the land in question. Prayer has, thus, been made that the impugned orders passed by the Courts below be set aside and the petitioners be allowed to continue the possession of the land.

I have considered the submissions made by the learned counsel for the petitioners and with his assistance, have gone through the impugned orders but do not find myself in agreement with the contentions, as raised by the counsel for the petitioners.

The plea, which is being sought to be taken now by the petitioners, was available to them at the very outset when an application under Section 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 was filed firstly before the Sub-Divisional Magistrate exercising the powers of the Collector and thereafter before the Appellate Court but no such offer has come forth from the petitioners which has now been made. This shows the conduct of the petitioners and since the petitioners have approached this Court under Article 226 of the Constitution of India where this Court is to exercise equitable jurisdiction, the said plea, as raised by the counsel for the petitioners, for payment of rent and for continuing the possession at market rent, could not be accepted. Otherwise also on merits, I do not find any justification for exercising the extraordinary jurisdiction especially in the light of the fact that the rent has not been paid by the petitioners from the year 2000 onwards and they have

rightly been ordered to be evicted from the premises in their possession in accordance with law. There being no illegality in the orders passed by the Courts below, no interference is called for. The writ petition, therefore, stands dismissed.

**(AUGUSTINE GEORGE MAISH)
JUDGE**

January 09, 2019

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No