

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

LPA-1776-2015 (O&M)

Date of decision:- 19.11.2019

Virender Kumar Karwa

...Appellant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present:- Mr. Sameer Sachdeva, Advocate,
for the appellant.

Mr. Arun Gosain, Central Government Standing Counsel,
for the respondents.

* * * *

RAVI SHANKER JHA, C.J. (ORAL)

With the consent of learned counsel for the parties,
the appeal is taken on board today.

This Letters Patent Appeal has been filed by the appellant against the decision of the learned Single Judge dated 10.09.2015 passed in CWP-19138-2015 disposing of the petition filed by the appellant-petitioner against resumption of old grant bungalow No. 95, Jhoke Road, Ferozepur by the army authorities with a direction to the respondents to determine compensation that is to be paid to the appellant in association with him in accordance with law within six months.

Learned counsel for the appellant submits that the house in question was given to the father of the appellant under the Old Grant Scheme by the respondent-authorities. It is stated that the appellant's father late Sh. Faqir Chand Karwa died on 22.02.1976. It is stated that since the year 1954, the bungalow in question has been rented out to the army authorities and they have been paying rent for the same continuously since then.

It is submitted that the authorities served the appellant with an order of resumption of the property by rescinding the old grant. On inquiry, the appellant came to know that the respondents had issued a notice in the name of his late father Sh. Faqir Chand Karwa on the address of the bungalow which was in occupation of the army itself.

It is submitted that the notice for resumption issued by the authorities against a dead person on a wrong address is no notice in the eyes of law and vitiates the entire proceedings taken up by the respondents for resumption.

It is further contended that the bungalow could be resumed by the respondents only on account of the existence of some urgent need which is totally absent in the present case. It is also submitted that the terms of the old grant for resuming the bungalow have to be meticulously followed and complied with by the authorities before taking over the property and determining the compensation thereof.

Learned counsel for the appellant submits that in such circumstances, the entire proceedings undertaken by the authorities being null and void and contrary to law deserve to be quashed. Learned counsel for the appellant has relied upon a decision of the Bombay High Court reported in *Phiroze Temulji Anklesaria Vs H.C. Vashistha and others*, 1980 AIR (Bombay) 9 in support of his submissions.

Learned counsel for the respondents per contra submits that before the learned Single Bench, the appellant after arguing at length had given up his challenge to the validity of the resumption proceedings and had confined his relief only to the payment of compensation. It is submitted that on account of the confined relief prayed for by the appellant before the learned Single Judge, the petition filed by the appellant was disposed of directing the authorities to determine the compensation within six months after referring to the decision of the Supreme Court rendered in the case of *Union of India Vs Harish Chand Anand*, 2010(15) SCC 519.

It is submitted that pursuant to the direction issued by this Court, the respondents issued a notice on 10.11.2015 to the appellant - Virender Kumar Karwa for appearing before the authorities to determine the compensation, but the appellant did not appear before the authorities. Consequently, the compensation proceedings have also been concluded ex-parte.

Learned counsel for the respondents submits that the bungalow in question was given under the old grant to the appellant's father and confers only rights of occupancy/licensee upon the appellant. It is submitted that as the bungalow is required by the army for accommodation of married army officers, it has been resumed and has now been converted into A1 land from B3 land.

Learned counsel for the respondents submits that the notice for resumption was also issued to the appellant in accordance with law and the contention regarding the alleged illegality in not issuing the same is also factually baseless. Learned counsel for the respondents has taken this Court through the notice issued on 06.08.2015 (Annexure R-8) to the appellant in terms of the requirement prescribed by the old grant for issuance of notice.

It is stated that in such circumstances, now that the compensation has also been determined in terms of the direction issued by the learned Single Bench the appeal deserves to be dismissed. Learned counsel for the respondents has relied upon a decision of the Supreme Court rendered in the case of *Chief Executive Officer etc. Vs Surendra Kumar Vakil and others* AIR (1999) SC 2294 in support of his submissions.

We have heard learned counsel for the parties at length.

From a perusal of the record, the undisputed facts that emerge are that the bungalow in question which was an old grant property was given to the father of the appellant and since 1954 has been rented out to the army and is in occupation of the army authorities; that the appellant's father

late Sh. Faqir Chand Karwa, the original holder of the bungalow, died on 22.02.1976; that though the fact of death of the appellant's father is recorded in the register by the authorities, the appellant or any other legal representative of deceased Faqir Chand Karwa has not got his name mutated in the record, nor have they given any address for communication etc. to the authorities; that the deceased Faqir Chand Karwa has left behind him seven daughters and two sons and there is nothing on record to indicate that the present proceedings have been taken up by all the aforesaid legal representatives and that the present proceedings have been taken up by the appellant - Virender Kumar Karwa alone assailing the proceedings.

Apart from the above, from a perusal of the notice of resumption, which is alleged to be null and void on account of the fact that it was issued against a dead person on a wrong address, it is evident that the notice dated 22.05.2015 issued by the Government of India (Annexure R-6) is addressed to Sh. Faqir Chand Karwa at Bungalow No. 95, Jhoke Road, Ferozepur Cantt. (Punjab) through the Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. and this notice which was to be served upon the appellant through the Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. has infact been forwarded to Seth Faquir Chand Kerwa & Sons the appellant's address vide Annexure R-8 on 06.08.2015 by the Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt.

The documents on record further indicate that on receiving this notice of resumption, the appellant has also filed a reply to the same on 24.08.2015 (Annexure P-8) which has been brought on record by the appellant himself. This fact is evidently clear from a bare perusal of the first paragraph of the reply which refers to the notice of resumption dated 22.05.2015 issued by the Government of India. A perusal of the reply further indicates that though the appellant has raised several issues therein, he has asked the authorities to first

reply to the queries raised by him only whereafter he would file reply to the notice for resumption. Apparently and undisputedly, the appellant after submitting his reply has neither appeared before the authorities, nor contested the matter.

It is also an admitted and undisputed fact that subsequently the property which was already in possession of the army as a tenant since 1954 was resumed and taken possession of by the authorities on 10.09.2015. The documents on record further indicate that after disposal of the writ petition by the learned Single Judge, notice for determining the compensation was issued to the appellant on 10.11.2015 vide Annexure R-2. However, as stated by the respondents, the appellant did not appear and the authorities have determined the compensation of the property ex-parte.

In the instant case, it is an undisputed fact that the property in question was not a leasehold property or a private property of the appellant. It is an admitted and undisputed fact that the property was given under the old grant which only confers right of occupancy/licensee upon the late father of the appellant. We find support for this conclusion from the law laid down by the Supreme Court in the case of *Chief Executive Officer* (supra) in paragraphs 14, 15 and 17.

It is also evident that since 1954, the property is not occupied by the old grant holder or his legal representatives and has been in occupation and possession of the army authorities who have been regularly paying rent. The facts brought on record further indicate that the army being in need of the bungalow/land for accommodation of married army officers has resumed and taken possession of the same and has converted it to A1 defence land. It is also evident from a conjoint reading of the notice dated 22.05.2015 issued by the Government of India, forwarding notice dated 06.08.2015 and the reply dated 24.08.2015 filed to the same by the appellant that the contentions regarding non-service of notice etc. and denial

of opportunity raised by the petitioner are factually misconceived and incorrect and that the authorities have in fact served the notice upon the appellant to which he has replied.

In such circumstances, even though the appellant had given up his challenge to the validity of the resumption proceedings before the learned Single Bench and confined his petition only to the issue of determination of compensation, we have considered the matter on merits on the insistence of the appellant and find no substance in the same.

The appeal filed by the appellant being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

19.11.2019
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No