

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

LPA No.802 of 2015 (O&M)
Decided on : 07.03.2019

Sukhwinder Singh

..... Appellant

Versus

Deputy Commissioner and ors.

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Akshay Sandhir, Advocate for
Mr. V.K.Sandhir, Advocate
for the appellant.

Mr. Sanjeev Soni, Advocate
for respondent No.3.

Manjari Nehru Kaul, J.

This appeal is directed against the order dated 23.04.2015 passed by learned Single Judge.

2. The case of the appellant is that shop bearing No.1 situated at Chatiwind Gate, Amritsar had been rented out to him by Municipal Corporation, Amritsar-respondent No.3 wherein he had been carrying on his business in this shop for which he had been regularly paying the rent and other ancillary charges to Municipal Corporation, Amritsar. An application was moved by respondent No.3 under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for brevity 'the Act') before Deputy Director, Urban Local Bodies, Amritsar exercising powers of Collector under the Act for eviction of the appellant on the

ground that he had surrendered the possession of the shop to unauthorised occupiers namely Surinder Cycle Works and Surinder Singh without prior permission of the competent authority and had also made additions and alterations without the prior permission of the Municipal Corporation. Deputy Director-cum-Collector vide order dated 12.01.2014 allowed the application filed by respondent No.3 and directed the appellant to hand over the vacant possession of the property in dispute to the Corporation within a period of 30 days. The appellant against the said order preferred an appeal before the Deputy Commissioner, Amritsar exercising the powers of Commissioner under the Act. The Deputy Commissioner-cum-Commissioner vide order dated 16.09.2014 upheld the order passed by the Collector and dismissed the appeal filed by the appellant. It is in this background that the appellant approached this Court by way of filing CWP No.20382 of 2014.

3. Learned Single Judge dismissed the writ petition by observing that no ground for interference was made out in view of the concurrent findings of fact, which had been recorded by the authorities below and the fact that the appellant had handed over the possession of shop in dispute to the unauthorised occupants namely Surinder Cycle Works and Surinder Singh.

4. Learned counsel for the appellant contended that the learned Single Judge erred in not appreciating that he was the original tenant/licensee and in fact had never parted with the possession of the shop in dispute nor had he ever inducted the alleged sub-tenants. He further contended that no documentary or oral evidence was led by respondent No.3

to show any violation on his part.

5. Learned counsel for the respondent No.3-Municipal Corporation, on the other hand, contended that notice dated 23.10.2013 was served upon the appellant as material unauthorised additions/alterations had been made in the property in dispute without taking the requisite permission from it, which rendered the appellant liable for eviction from the shop. The unauthorised alterations had been causing nuisance to the public at large and the passers by. He further contended that the appellant had sublet the shop in question without prior permission of the competent authority, which could not have been done in respect of the shop, which was public premises.

6. We have heard learned counsel for the parties and perused the record with their assistance.

7. A perusal of the record leaves no manner of doubt that the appellant has admitted his relationship with respondent No.3 as that of licensee/licensor. The appellant was required to pay the rent/licensee fee of the shop in dispute at enhanced rate from time to time as per the State Government's instructions but the same were not paid at the rate fixed and thus, there was violation of the norms of the license. Further, categorical finding had been recorded by the authorities below and affirmed by the learned Single Judge that appellant had handed over the possession to M/s Surinder Cycle Works and had also made addition and alteration without the permission of the Municipal Corporation. Once that was so, he had become unauthorised occupant of the shop in dispute. Hence, his eviction from the disputed property could not be said to be bad in the eyes of law. Moreover, he was rightly held liable to pay damages on account of unauthorised use

and occupation. It would be relevant to notice that the oral as well as documentary evidence, which was led on record by respondent No.3 went unrebutted and unchallenged by the appellant.

8. Keeping in view the discussion made above, we find that the instant appeal is bereft of any merit and does not warrant any interference.

9. Accordingly, the present appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

07.03.2019

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No