

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-1826-2017

Date of decision : 26.09.2019

Bhupinder Saini

... Appellant

Versus

Punjab State Electricity Board and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU***

Present: Mr.Jaideep Verma, Advocate
for the appellant.

RAJIV SHARMA, ACTING CHIEF JUSTICE

This appeal is instituted against the judgment dated 31.05.2017 rendered by the learned Single Judge in CWP no.19687 of 2009.

2. The brief facts necessary for adjudication of this appeal are that respondent Board has filed writ petition for quashing of the order dated 05.10.2006 and order dated 17.11.2008 whereby the application filed by the respondent-Board for eviction of the appellant was dismissed by the Sub Divisional Magistrate and the same was upheld by the appellate authority. Respondent Board had filed an application for eviction against the appellant being in unauthorised occupation of public premises and recovery of damages qua Quarter no.3, Type III situated at Dobetia Colony Nangal. The Collector, Anandpur Sahib, dismissed the application on the ground that respondent no.1 had filed the case under the East Punjab Rent Restriction

Act. In fact the Rent Controller, Anandpur Sahib has dismissed the

ejectment petition on 26.02.2005. Respondent no.1 has filed an appeal before the Commissioner against the order of learned Collector. The Commissioner also dismissed the same.

3. The fact of the matter is that the appellant was allotted the government accommodation in the year 1986. It was cancelled on 06.02.1997. Since the allotment was cancelled, possession of the appellant became unauthorized. It is not disputed that the property falls within the ambit of Public Premises. The quarter could not be allotted to the appellant. He was not an employee of the respondent Board. The respondent should have instituted the petition under the Public Premises Act instead of filing the petition under the East Punjab Urban Rent Restriction Act. In fact the Rent Controller had no jurisdiction to decide the matter. The prescribed authority, i.e. Sub Divisional Magistrate exercising the power of the Collector could not dismiss the eviction petition merely on the ground that the respondent Board has filed petition under the East Punjab Urban Rent Restriction Act. The same illegality has been committed by the Commissioner.

4. In normal circumstances, we would have remitted the matter back to the Sub Divisional Magistrate but taking into consideration, the appellant was put in possession of the premises illegally on 31.12.1985, the same was cancelled on 06.02.1997. The respondent Board requires the possession of the quarter to be further allotted to its employees. The learned Rent Controller had no jurisdiction to enter into the matter. The allotment of the accommodation to the appellant could not be linked with the non payment of his dues by the Board. The appellant has remained in

unauthorised possession since 06.02.1997.

5. Accordingly, there is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
ACTING CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

September 26, 2019.
Davinder Kumar

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