

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.114

CWP-245-2020 (O&M)
Date of decision : 8.1.2020

Mehar Chand and others

..... Petitioners

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vikram Singh, Advocate, for the petitioners.

SUDHIR MITTAL, J. (Oral)

The Faridabad Municipal Corporation sought the ejectment of the predecessor in interest of the petitioners under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short 'the Act'). Ejectment was ordered vide order dated 15.9.1993 in the presence of the aforementioned predecessor in interest. The eviction order was not challenged by him (namely Tansukh), till his death on 1.10.1998. The petitioners succeeded to the land in dispute being the sons of said Tansukh, but they also did not choose to challenge the eviction order for a long period of 26 years. It appears that in May 2016, they filed an injunction suit, which was dismissed. First appeal against the judgment and decree of the trial Court was also dismissed and apparently, regular second appeal is pending. During the pendency of the said RSA, an appeal under the Act was preferred against the eviction order, which has been dismissed vide order dated 8.11.2019 on account of delay of 26 years in filing the same.

Learned counsel for the petitioners submits that on account of the death of their father, the petitioners were not aware of the order of eviction. They acquired knowledge sometime in the year 2016 leading to the filing of suit for injunction. However, unless and until the order of

eviction was challenged in the suit, injunction simplicitor could not have been granted and therefore, the petitioners were advised to file a statutory appeal. Thus, the delay has taken place.

The contentions of learned counsel for the petitioners cannot be accepted. Admittedly, the predecessor in interest of the petitioners i.e. Tansukh was alive for 5 years, after passing of the eviction order, but he failed to challenge the same. It is not believable that the petitioners did not acquire knowledge of the eviction order during the life time of their father. Apparently, since no action was being taken for eviction, the petitioners chose to sit on the fence. As on date, even a civil suit for declaration is barred by limitation. The writ petition is thus, hit by delay and latches as the contention of learned counsel is that the proceedings initiated under the Act were without jurisdiction.

The writ petition is accordingly dismissed.

(SUDHIR MITTAL)
JUDGE

8.1.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No