

*CWP-1424-2020 &
other connected cases*

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1.)

CWP-1424-2020

Date of Decision:-05.02.2020.

Sube Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

(2.)

CWP-1436-2020

Braham Parkash and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

(3.)

CWP-2746-2020

Mahabir Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Jagmohan Ghumman, Advocate and for the petitioners.

Mr. Rajesh Gaur, Additional A.G., Haryana.

SANJAY KUMAR, J. (Oral):

The prayer of the petitioners in these three cases, 67 in all, is to
direct the Gurugram Municipal Corporation to consider their claims under

Section 164 (c) of the Haryana Municipal Corporation Act, 1994

(hereinafter, 'the Act of 1994'). They claim that they have been in possession of municipal land since several decades and that they would be entitled to avail the benefit of the aforesaid statutory provision. Their complaint presently is that without considering their claims, the municipal authorities are proceeding to demolish the constructions made by them in the subject municipal land.

Though notice of motion was ordered in all these cases, the respondents have not filed their written statement till date. Mr. Rajesh Gaur, learned Additional Advocate General, Haryana, seeks further time to do so. He would inform this Court that orders of eviction have already been passed under Section 408-A of the Act of 1994 against some of the petitioners. He, however, concedes that orders are yet to be passed upon the claims made by them under Section 164 (c) thereof.

Section 164 (a) of the Act of 1994 makes it clear that the Commissioner of a Municipal Corporation is empowered to undertake the sale or grant of a lease in perpetuity of any immovable property belonging to the Corporation, the value of which does not exceed Rs.20,000/- or the annual rent of which does not exceed Rs.10,000/-. Section 164 (c) states that the consideration at which the immovable property may be sold, leased or otherwise transferred, should not be less than the value at which such immovable property can be sold, leased or otherwise transferred in normal and fair competition. The second proviso to Section 164 (c) is of relevance and states to the effect that in the case of transfer of shops and houses to individuals, who have been in possession thereof for the last 20 years, the property may be transferred at the Collector's rate by way of sale, subject to the prior approval of such authority as may be prescribed.

As it is the case of the petitioners that they would come within the ambit of the aforestated second proviso, it is for the Commissioner of Gurugram Municipal Corporation to consider their claims on their own merits and take a call as to whether they would be entitled to the benefit conferred by the statute. No cause is made out for this Court to step in at this stage, when the authority concerned has not even taken a decision in the matter. Without undertaking this exercise, it would not be open to the municipal authorities to evict the petitioners from the subject land, notwithstanding the passing of orders under Section 408-A of the Act of 1994.

These writ petitions are accordingly disposed of directing the Commissioner, Gurugram Municipal Corporation, to consider the applications made by the petitioners, under the second proviso to Section 164 (c) of the Act of 1994, on their own merits and in accordance with law and pass appropriate reasoned orders thereon. The same shall be communicated to the petitioners. This entire exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a certified copy of this order. Pending this exercise, the municipal authorities shall not give effect to the orders passed against the petitioners under Section 408-A of the Act of 1994.

No order as to costs.

(SANJAY KUMAR)
JUDGE

February 05, 2020.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.