

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

CWP-16306-2020 (O&M)
Date of decision : 13.10.2020

Kaushalya Devi

...Petitioner

Versus

Jagraon Solvex Private Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Sourabh Goel, Advocate for the petitioner.

ANIL KSHETARPAL, J.

Through this writ petition under Article 226 of the Constitution of India, the petitioner prays for grant of the following substantive relief:-

“a) Issue a writ order or direction in the nature of mandamus, to direct the respondent No.2 to remove seal and to hand over the possession of the property which was on lease with the respondent No.1-Company and was ordered to the wound by the this Hon'ble Court vide order dated 14.9.2000, Annexure P-1, and even as per the reply dated 7.4.2017, Annexure P-9, filed in the company application filed by the petitioner, the respondent No.2 had admitted the factual position but till date has failed to hand over the possession of the property and even to take any decision on the representation dated 24.2.2020, Annexure P-10;”

In the present writ petition, respondent No.1 is Jagrao Solvex Private Limited, through its Official Liquidator and respondent No.2 is the

Official Liquidator. In para 1 of the petition, the petitioner has pleaded that the premises in dispute was on lease with respondent No.1-company. The petitioner claims that she is subsequent purchaser of the property vide sale deed dated 20.06.2012. She asserts that since the company has been wound up, therefore, a direction be issued to the Official Liquidator to hand over the possession of the tenanted premises. In support of her claim, she further relies upon the reply filed by the Official Liquidator in Company Application No.605 of 2016, wherein it is stated that the Official Liquidator has no objection to hand over the property to its true owner, upon establishment of title and shifting of books and records etc., if available and subject to directions of the Court.

It is pertinent to note here that the petitioner had filed CA No.605 of 2016, in CP No.111 of 1999, with identical relief. The aforesaid application was disposed of after a period of 4 years, with the following order:-

“Counsel for the applicants submits that he wishes to withdraw the present application with liberty to approach the Official Liquidator, to show that the property being claimed by them was not owned by the company.

The present application is dismissed as withdrawn, with liberty aforesaid.”

After having heard learned counsel for the petitioner, this Court is of the view that it would not be appropriate for this Court to exercise its extraordinary jurisdiction in view of the nature of relief sought by the petitioner. In essence, the writ petitioner is calling upon this court to decree a suit for possession of tenanted premises in occupation of a company

which is stated to be under liquidation. The company was admittedly inducted as a tenant in the premises in dispute. It is also an admitted fact that respondent No.1-company still exists and has not been dissolved. It is pleaded by the petitioner that as per the record of the Registrar of Companies, the disputed premises is the registered office of respondent No.1-company.

It may be noted here that urban tenancy in the State of Punjab, is governed and regulated by the provisions of the Punjab Rent Act, 1995. There are limited grounds for seeking eviction of the tenants. Chapter IV of the Act, provides that the tenants would have the protection of law against eviction except on the grounds enlisted therein. Thus, the petitioner has an effective alternative remedy of filing a petition under the Punjab Rent Act, 1995.

Without finally giving any opinion on merits, even if the argument of the learned counsel for the petitioner to the effect that the tenancy has come to an end, is accepted for argument sake, still the petitioner has a remedy of filing a civil suit seeking relief of possession.

Keeping in view the afore-said facts, this petition is disposed of by relegating the petitioner to avail the alternative remedy.

All the pending miscellaneous applications, if any, are disposed of, in view of the afore-said order.

13.10.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No