

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 18417 of 2013

Date of Decision: January 16, 2020

Bal Kishan through LRs

.....Petitioner

versus

Commissioner, Rohtak and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.K. Verma, Advocate
for the petitioner

Mr. Manish Dadwal, AAG Haryana

Mr. Rajesh K. Sheoran, Advocate
for respondent No. 3

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Sudhir Mittal, J. (Oral)

The petitioner is a sub lessee of a shop. The lease was originally executed in the year 1981 in favour of one Gopi Ram, whose legal representatives are the private respondents. In the year 1984, said Gopi Ram sublet the shop to the petitioner. On 03.09.2001, the petitioner moved an application before the Improvement Trust, Sonapat for regularization of his possession under policy dated 20.01.1994. Pursuant to the application, Improvement Trust Sonapat sent a communication dated 27.11.2001 to the petitioner asking him to deposit the transfer fee. Transfer fee was infact deposited on 10.01.2002. Meanwhile, the original lessee namely Gopi Ram filed a suit for injunction dated 06.11.2001 seeking to restrain the Improvement Trust, Sonapat, from transferring the lease in favour of the petitioner. During the pendency of the suit, the Improvement Trust

Sonapat (respondent No. 3) did not transfer the lease in favour of the petitioner.

Instead, on 10.12.2004 an application for eviction of the petitioner and Gopi Ram was moved under the Haryana Public Premises Land (Eviction and Rent Recovery) Act, 1972. The Collector ordered eviction vide order dated 10.06.2009. The appeal of the petitioner has been dismissed vide order dated 06.09.2012. The appellate order is under challenge in the present writ petition.

I have also been informed that the injunction suit was dismissed on 06.08.2007.

Learned counsel for the petitioner submits that eviction of the petitioner was illegal as the petitioner was always ready and willing to get the lease transferred in his name and to pay the arrears of rent. Thus, he cannot be termed to be in unauthorized occupation of the public premises.

Learned counsel for respondent No. 3 submits that the policy dated 20.01.1994 is not applicable to the petitioner. Moreover, Gopi Ram was not entitled to sublet the shop in favour of the petitioner. Thus, the possession of the petitioner was illegal from the very beginning. Admittedly, the premises is owned by respondent No. 3 and, thus, finding of the authority that the petitioner is in unauthorized occupation of public premises is legal and valid.

Learned State counsel submits that the bonafides of the petitioner are suspect because the civil suit was dismissed way back in the year 2006 but thereafter no effort was made by the petitioner to make payment of arrears of rent nor did he make any efforts to pursue his application for transfer of the lease.

It is not in dispute that the petitioner is a lessee from the original lessee i.e. a sub-lessee. It is also not in dispute that the lessee was not entitled in law to transfer his lease hold rights. Thus, the possession of the petitioner has been illegal since the very beginning. Although, he made an application for transfer of the lease but his bonafides are suspect as during the pendency of the civil suit he

never followed up his application for transfer of the lease nor did he make any effort to pay the arrears of rent till the order of eviction was passed. Thus, the authorities below were justified in holding that the petitioner is in unauthorized occupation of public premises.

There is no infirmity in the impugned order and the writ petition is dismissed.

January 16, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No