

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

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CWP-3156-2020 (O&M)

Date of decision: 25.02.2021

JARNAIL SINGH

...Petitioner

Versus

BHAKRA BEAS MANAGEMENT BOARD AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Lakshay Bector, Advocate for the petitioner.
Mr. Karan Nehra, Advocate for the respondents.

ANIL KSHETARPAL, J. (Oral)

Assailing the correctness of orders of eviction passed under the Public Premises (Eviction of unauthorised occupants) Act, 1971 passed by the Estate Officer which has been confirmed by the appellate authority (Additional District Judge), this writ petition has been filed under Article 226/227 of the Constitution of India. The petitioner who was in employment of BBMB, was allotted quarter No.27-CC, Nangal Township, District Rupnagar. The allotment was cancelled on 01.08.1998 after giving an opportunity to the petitioner to show cause. However, no reply was filed. The order of cancellation of allotment has never been challenged by the petitioner. The allotment was cancelled on the ground that the petitioner had sublet the premises to one Jaswinder Singh. Since the petitioner did not vacate the premises, therefore, proceedings under the aforesaid Act were initiated. The Estate Officer, exercising the powers under the aforesaid Act, passed the order dated 05.03.2003, dismissing the petition. However, thereafter, the Estate Officer himself visited the premises and enquired about the occupant from the neighbourhood. He found that Jaswinder Singh is residing therein. He came back to the office and recalled his order and thereafter passed the eviction order. In appeal, the order of eviction was set aside on the ground that the Estate Officer can not subsequently recall his order and that also in the absence of parties.

Once again, the proceedings started before the Estate Officer resulting in the order of eviction. The petitioner filed the appeal against the order which has also been dismissed. Learned Additional District Judge, has noticed that petitioner has failed to produce any evidence such as electricity bills or other documents to establish that he (Jarnail Singh) continues to reside therein. Petitioner-Jarnail Singh has admitted that during the entire time period of education of his five children, he never gave the address of the quarter in the school record. The telephone connection installed in the quarter in the name of the petitioner was also disconnected in the year 2003. Still further, the presiding officer had himself visited the premises on 05.03.2003 and found that Jaswinder Singh was residing in the quarter.

This Court has heard the learned counsel for the parties at length. The petitioner, after his superannuation, has already vacated the quarter. Hence, the only question is whether the petitioner is liable to pay the amount as assessed or not?

Learned counsel for the petitioner while referring to the statement of Sh. PK Kataria, Sub Divisional Officer, submits that he was not present at the spot, when the enforcement team visited quarter No.27-CC, Jaswinder Singh was found residing there. Further, he submitted that there is no written inspection note either by the field staff or any other official to the effect that Jaswinder Singh is residing therein. On the basis of the aforesaid statement, learned counsel contends that the order passed by the concerned authority is liable to be set aside.

Per contra, Sh. Karan Nehra, Advocate, has pointed out that the allotment to the petitioner was cancelled on 01.08.1998. He neither challenged the aforesaid order nor applied for re-allotment. Thus, after 1998, there is no allotment in favour of the petitioner. He, hence, contends that the petitioner was an unauthorised occupant till the date of his retirement.

After having heard the arguments, this Court is of the

considered view that there is no scope for interference in the exercise of its jurisdiction under Article 226/227 of Constitution of India. There is no dispute that the allotment of the petitioner was cancelled long back and that he never questioned the aforesaid cancellation. Still further, learned Additional District Judge, as noticed above, after evaluating the evidence brought on record, found that the petitioner has miserably failed to produce any cogent evidence to prove that he continued to reside in the quarter in question. In these circumstances, no ground to issue the writ, as prayed for, is made out.

Dismissed.

25.02.2021

(ANIL KSHETARPAL)
JUDGE

ashok

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No