
Rajan Kumar and others v. State of Punjab and others

Present: Ms. Rishma Verma, Advocate,
for the petitioners.

Mr. Sidakmeet Sandhu, AAG, Punjab.

Case heard via video conferencing.

On 27.08.2021 the following order had been passed in this
petition:-

“Case heard via video conference.

By this petition, the petitioners seek a direction to respondents no. 1 to 3 to protect them from private respondents no. 4 to 7, as they are forcefully taking five times rent from them and threatening them to vacate the shops and causing a threat to their lives and liberty (all as alleged).

At the outset, learned counsel for the petitioners points to the order passed by this court on 04.08.2021, in CRM-M-24656-2021, which was filed by persons who are stated to be similarly situated with the present petitioners, with that petition having been disposed of with a direction to respondents no.4 to 6 therein (stated to be the same said respondents in the present petition), that the petitioners would not be evicted except by due process of law and if they are sought to be forcibly evicted, the Commissioner of Police, Jalandhar, as also the SHO, Police Station Jalandhar Cantt., would ensure that they are not evicted without due orders passed by a competent authority; and with such orders to be produced before the Commissioner of Police by respondents no.4 to 6, prior to eviction of the petitioners.

She submits that the petitioners are being now forcibly evicted, with the police also not entertaining the petitioners, on the

ground that the orders passed in that petition do not pertain to the petitioners.

Without making any comment on the actual merits of the case, notice of motion is issued, with Mr. Rana Harjasdeep Singh, DAG, Punjab, accepting notice at the asking of the court on behalf of respondents no.1 to 3.

A copy of the petition be supplied to him today itself by learned counsel for the petitioners.

Respondents no.4 to 6 be served by dasti process only and specifically, returnable on 08.09.2021.

In the meanwhile, till the next date of hearing only and specifically, the petitioners be not evicted.

It is made clear that if respondents no. 4 to 6 are not shown to be served of the notices issued, the interim order would be liable to be vacated on that date itself.”

Today Mr. Mandeep Singh Sachdev, Advocate, appears for respondents no.4, 5 and 6 and submits that the petition may be disposed of in terms of the undertaking already given by him in a similar petition earlier filed by some other petitioners, i.e. CRM-M-24656 of 2021, which was disposed of by this court on 04.08.2021.

Learned counsel for the petitioners submits that upon the aforesaid statement, she does not object to the petition being disposed of.

It is to be noticed that the order passed in that petition on 04.08.2021, reads as follows:-

“CRM-23387 of 2021

This application has been filed by the petitioners in the accompanying petition, seeking to place on record certain documents with the accompanying petition, as have been annexed

as Annexures A-1 to A-14 alongwith, including the affidavit of the petitioners as also the notices issued to them by the respondent Cantonment Board, asking to them to deposit the arrears of *rehri* license fee, sanitation charges and GST for parking of *rehris*, and that legal action would be taken to recover the amount; with the notices also stating therein that the *rehris* could be removed from the site, and other persons would be allowed to operate therefrom.

Notice in the application.

Mr. Mandeep Singh Sachdev, Advocate, appears and accepts notice on behalf of respondents no.4 to 6, with learned State counsel accepting notice at the asking of the court on behalf of respondents no.1 to 3, and Ms. Damini Aggarwal, Advocate, accepting notice on behalf of respondent no.7.

The application only being one seeking to place on record the notices admittedly issued to the petitioners even as per learned counsel for respondents no.4 to 6, it is allowed and the documents, Annexures A-1 to A-14 with the application, are ordered to be taken on record as Annexures P-2 to P15 with the accompanying petition.

Main case

By this petition filed under the provisions of Section 482 of the Cr.P.C., the petitioners seek issuance of a direction to respondents no.1 to 3 to protect the petitioners from private respondents no.4 to 7, as they are (allegedly) forcefully taking five times the rent from the petitioners and threatening them to vacate their shops (as alleged).

The dispute in this case essentially is civil in nature as regards license fee being paid/not paid to the respondent Cantonment Board by the petitioners, though of course the allegation of the petitioners, as recorded in the order dated 06.07.2021, is to the effect that they are being forcibly evicted by respondent no.7, allegedly at the instance of respondents no.4 to 6.

Learned counsel for the petitioners also submits that

respondent no.7 is in fact threatening to evict them unless they pay the license fee.

Having considered the matter, this petition is consequently disposed of with a direction to respondents no.4 to 6 that the petitioners would not be evicted except by due process of law; and in case they are sought to be forcibly evicted, respondent no.2, i.e. the Commissioner of Police, Jalandhar, as also the SHO, Police Station Jalandhar Cantt. (respondent no.3), would ensure that the petitioners are not so evicted, without due orders passed under the due process of law by a competent court/authority, and with such orders to be produced before the Commissioner by respondents no.4 to 6, prior to eviction of the petitioners.

It is of course to be noticed that Mr. Sachdev, learned counsel appearing for respondents no.4 to 6, has already very fairly stated that the petitioners would not be evicted except by following due process of law, if such eviction is found to be necessary on account of non-payment of license fee etc. ”

Consequently this petition is disposed of in the same terms, with the statement of learned counsel for respondents no.4 to 6 also having been made in the same terms.

Naturally, the directions issued by this court in that order would apply to the case of the present petitioners also, with the petitioners not to be evicted except in due course of law, and with the Commissioner of Police, Jalandhar, as also the SHO, Police Station Jalandhar Cantt., to ensure that the petitioners are not evicted except on orders passed by due process of law by a competent authority, with such orders to be produced before the Commissioner by respondents no.4 to 6, before evicting the petitioners.

September 08, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE