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

CWP No.17161-2016 (O&M)

Date of Decision:07.04.2021

Krishan Kumar

..... Petitioner

Versus

Commissioner, Municipal Corporation Gurgaon
and Anr.

..... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Onkar Singh, Advocate for
Mr. Neeraj Gupta, Advocate
for the petitioner.

Mr. B.R. Mahajan, Sr. Advocate with
Mr. Arvind Seth, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

The petitioner has filed this writ petition seeking a writ in the nature of certiorari to quash the orders dated 1st February 2012 and 19th May 2016 respectively. Some facts are required to be noticed. Undisputedly, the petitioner took on rent a shop bearing No.8, from Gram Panchayat of Village Kanhai, on a monthly rent of Rs.9700/- in January 2008 through open bidding. Thereafter, the area of the village came under the jurisdiction of Municipal Corporation, Gurgaon. On a representation made by the petitioner and various other shopkeepers, the rate of rent was refixed at Rs.2500/- per month by the Municipal Corporation. However, the Municipal Corporation later on realized its mistake and recalled the order by which the rate of rent was reduced. The petitioner did not chose to deposit the rent. Consequently, the Municipal Corporation initiated

eviction proceedings after serving notice under Section 408 (A) of the Haryana Municipal Corporation Act, 1994. The Joint Commissioner, Municipal Corporation, Gurgaon, in exercise of his powers conferred under Section 408 (A) directed the petitioner to hand-over the vacant possession of the rented premises within a period of seven days. It is alleged that the petitioner surrendered the possession. However, certain other tenants challenged the order passed by the Joint Commissioner in CWP No.16857 of 2012 which was allowed on August 12, 2014.

While deciding the writ, respondents No.1 and 2 were granted liberty to issue appropriate notice and call for objections and then take a decision in accordance with the law. As noticed above, the petitioner did not file any appeal or writ petition challenging the order dated 1st February 2012. He allegedly made a request to the Appellate Authority that the seal from the shop, which was on tenancy with him, be removed on the ground that the High Court in CWP No.16857 of 2012 has passed an order. The request of the petitioner was declined vide an order dated 19th May 2016.

The petitioner has now challenged the correction of the orders dated 1st February 2012 and 19th May 2016 respectively.

It is not in dispute that the petitioner never filed any appeal or writ petition against the order dated 1st February 2012. The petitioner is out of possession of the shop which was at one point of time taken on rent. Now, the shop belongs to the Municipal Corporation.

Learned counsel for the petitioner contends that the remaining shopkeepers who were identically situated have been allowed to continue but the petitioner has not been granted a similar benefit.

It will be noted here that since the petitioner did not file any

sleeping over the matter even after the shop was sealed in the year 2012, therefore, the petitioner has allowed the order dated 1st February 2012 to become final against him. Still further, during the course of hearing of the writ petition, an offer was given to the petitioner as to whether he is ready to pay the rent at the current market rate. Learned counsel on seeking instructions from the petitioner has submitted that the petitioner is entitled to be treated on parity with the other shopkeepers as regards the rate of rent.

It is not in dispute that the shop in question is a public property and the petitioner after having remained out of possession for more than four years has chosen to file this writ petition. Hence, no ground to issue the writ is made out.

Dismissed.

(ANIL KSHETARPAL)
JUDGE

07th April 2021.

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No