

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.M.No.16213-CII of 2022 in/and
CR-7936 of 2017 (O&M)
Date of decision: 24.11.2022

Market Committee, Bassi Pathana, through Secretary

..Petitioner

Versus

Chaman Lal (since deceased) through his LRs and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Sharma, Advocate
for the petitioner.

Mr. Kewal Kumar Garg, Advocate
for respondent no.1(ii)

ANIL KSHETARPAL, J(Oral)

C.M.No.16213-CII of 2022

1. The application is allowed.
2. The documents Annexure R-1 to R-12 are taken on record.

MAIN

3. The market Committee, Bassi Pathana has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, while questioning the correctness of the order passed by the Sub Divisional Magistrate, Bassi Pathana, on 15.05.2017.
4. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book along with the documents filed.

5. Relevant facts, in brief, are as under:-

6. The petitioner's application filed under the Punjab Public Premises and Land Acquisition And Rent Recovery Act, 1973 (hereinafter referred to as 'the 1973 Act') seeking eviction of the respondents was allowed on 28.02.2006. The respondent's appeal against the aforesaid order was dismissed on 25.05.2006 by the Deputy Commissioner while exercising the powers of the Commissioner. The respondents' writ petition i.e. CWP No.9646 of 2006 (Chaman Lal and another vs. State of Punjab and others) challenging the correctness of the orders passed by the Collector and the Commissioner has already been dismissed by this court on 20.03.2009. The Market Committee in order to get the physical possession filed an execution petition which has been dismissed by the Sub Divisional Magistrate, Bassi Pathana.

7. While dismissing the execution petition, the Sub Divisional Magistrate, Bassi Pathana, has held that the respondents have purchased the property from Municipal Council and the sale deed in their favour has never been challenged by the Market Committee (petitioner herein). The reliance has also been placed on a report to the effect that the property in dispute is located outside the revenue limits of the grain market.

8. Admittedly, the respondents, while contesting the proceedings under the 1973 Act, had taken this defence which was rejected by the courts of competent jurisdiction.

9. Admittedly, the respondents filed a civil suit, but the same has been withdrawn. It is shocking that the Sub Divisional Magistrate, Bassi Pathana, while deciding the execution petition has gone beyond the orders passed by the same court which was affirmed not only by the Commissioner but also by the High Court. It is a well settled rule of law that the Executing

Court cannot travel beyond the decree but only to decide all the questions arising related to execution, discharge and satisfaction of the decree. The reliance placed by the Sub Divisional Magistrate, Bassi Pathana, on the report is wholly misplaced because the report submitted on the administrative side cannot overrule the orders passed by the courts in exercise of their judicial powers.

10. Keeping in view the aforesaid facts, the order dated 15.05.2017 is set aside.

11. The revision petition is disposed of.

12. Let a copy of the order be forwarded to the Chief Secretary, Punjab to examine the conduct of the concerned Sub Divisional Magistrate, Bassi Pathana, while passing the order dated 15.05.2017.

13. The Sub Divisional Magistrate, Bassi Pathana, is directed to take immediate steps for the delivery of possession positively within a period of one month, from today, failing which the petitioner shall have the liberty to file an application for revival.

14. All the pending miscellaneous applications, if any, are also disposed of.

November 24, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*