

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

CWP-6671-2019 (O&M)

Date of decision: March 14, 2022

Surjit Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Anmol Partap Singh Mann, Advocate for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG Punjab.

ARUN MONGA, J (ORAL)

Petitioner seeks setting aside of the order dated 10.01.2019 passed by District Magistrate, Kapurthala (Annexure P-3) and consequently eviction of respondents No.3 and 4 from the first floor of the House bearing No.1086, Urban Estate, Kapurthala.

2. Office report reveals that despite attempts, respondents No.3 & 4 could not be served. It transpires that at the relevant time when the impugned order was passed, the son of the petitioner was married to respondent No.4. However, later on after obtaining divorce, she has moved out and also got remarried as is reflected from Annexures P-6 & P-7. In the premise, at this stage, service of respondent No.4 is not deemed necessary and is ordered accordingly.

3. On the other hand, similar is the position with regard to the service of respondent No.3, though in somewhat different circumstances i.e. he has never been to India since 2012 and has been residing abroad. On his known address with the petitioner, who is his father, service could not be effected as it seems that respondent No.3 has shifted from the said address. Latest addresses

is not known to the petitioner-father. Be that as it may, given that neither respondent No.3 nor his wife respondent No.4 are currently residing on the premises in question and are out of country and despite various attempts, petitioner has not been able to serve them, no useful purpose would be served by keeping the petition pending, inasmuch as, limited grievance herein is that though physically petitioner is in possession of the premises in question, but since one room has been put under lock and key of respondent No.4, he is unable to use the same. In the premise, prayer in the writ petition, that direction be issued to respondent No.2-District Magistrate (Deputy Commissioner), Kapurthala to take appropriate steps to restore the possession of the first floor of their house bearing No.1086, Urban Estate, Kapurthala, is accepted.

4. Writ petition to that extent is allowed with a direction to respondent No.2 to take appropriate steps to restore the possession of the premises in question to the petitioner by breaking open the lock. Needful shall be done by doing videography and by making an inventory of the contents lying in the room. Record of the same shall be maintained on the file before the Maintenance Tribunal.

5. Liberty is granted to respondent No.3 and respondent No.4 to approach this court in case of any grievance *qua* the instant order.

(ARUN MONGA)
JUDGE

March 14, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No