

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

107

CWP No.6912 of 2022(O&M)

Date of Decision: 02.04.2022

Chander Prakash and others

...Petitioners.

Versus

State of Haryana and others

....Respondents.

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Ms. Priyanka Sud, Advocate for the petitioners.

Mr. B.R. Mahajan, Advocate General, Haryana with
Mr. Samarth Sagar, Additional AG, Haryana.

Amol Rattan Singh, J.(Oral)

By this petition, filed under the provisions of Articles 226/227 of the Constitution of India, the petitioners essentially seek that they be rehabilitated after being dispossessed of the shops that they have been occupying for a few decades (as contended).

Earlier also the petitioners had filed various writ petitions, i.e. CWP Nos.5912, 5984, 5958 and 5992 of 2022, which were dismissed as having been withdrawn, in view of the fact that one part of the pleadings therein was in reference to a time beyond the date of even the affidavits as were accompanying such petitions.

Now this petition has come to be filed, seeking the aforementioned relief.

It is to be noticed that at the time of hearing of one of the previous petitions, learned counsel for the petitioners had submitted that the petitioners in fact were in occupation of the site in question since 1950 and

were duly paying rent.

However, Mr. Samarth Sagar, learned Additional Advocate General, Haryana, appearing for all the respondents, had submitted that since 1973 no rent has been paid by the petitioners. Learned counsel had thereafter pointed to an announcement stated to have been made by the Chief Minister, Haryana, on 16.10.2021 (as is now referred to in Annexure P-8 which is seen to be a communication dated 04.01.2022 from the Commissioner, Municipal Corporation, Gurugram to the Director, Urban Local Bodies, Haryana).

As per the said communication (Annexure P-8), upon the Chief Minister's direction a proposal was to be drawn up on the request made by the petitioners (applicants before the Chief Minister), as regards rehabilitating them, for which purpose a committee was set up.

That committee had submitted its report dated 30.11.2021 (copy Annexure P-10), in which the details of all the shops etc. occupied by different persons have been given; and eventually it has been stated as follows:-

“6. However, if any alternate site is provided to the occupants of commercial/residential of Kaman Sarai, it shall be paid at prevailing circle rates applicable at the time of allotments.”

Thus, a recommendation has been made that the question of rehabilitating the petitioners at a different site be considered and a decision taken.

Today, learned counsel for the petitioners has also stated that the petitioners have even been paying property tax since long years, but with no document annexed with the petition to show any such payment.

Be that as it may, it is also to be noticed that the petitioners/some of them had filed a civil suit/civil suits seeking a declaration that they be declared to be the owners of the land in question on the basis of adverse possession; but for the reasons best known to them, those suits have been admittedly withdrawn.

The prayer in this petition now is not laying any challenge to the orders of eviction and demolition passed by the competent authority (including the order passed in appeal), with the petitioners' prayer being for rehabilitation at the site in question.

As regards rehabilitation at the site in question, even prior to the notice being issued, Mr. Samarth Sagar, Additional Advocate General, Haryana, appears and submits, on instructions from Mr. Sanjiv Singla, Joint Commissioner-II, Municipal Corporation, Gurugram, that the Municipal Corporation does not intend to offer any of the shops that will be constructed within the parking lot that is to be constructed on the site in question, on any preferential basis to the petitioners.

However, as regards the report (Annexure P-10), obviously that factual position is not denied by the learned State counsel.

Consequently, we dispose of this writ petition with a direction to the competent authority amongst the respondents to take a decision on the report submitted by the committee formed upon the directions of the Chief Minister, Haryana, as contained in the communication from the office of the Director, Urban Local Bodies, Haryana to the Commissioner, Municipal Corporation, Gurugram, on 30.11.2021., within a period of three months from the date of receipt of a certified copy of this order .

Naturally, the fact that the petitioners have been occupying the land in question for an extremely long period of time and are stated to have also been paying Municipal Taxes (as contended but with no finding given in that regard by this Court), would be factors to be duly taken into consideration by the competent authority to rehabilitate the petitioners at an alternative site.

(AMOL RATTAN SINGH)
JUDGE

(LALIT BATRA)
JUDGE

02.04.2022
D.Gulati

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No