

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

111

LPA No.314 of 2022 (O&M)
Date of Decision: April 22nd, 2022

Murti Radha Krishanji and Murti Thakurji, Thakurdwara Mandir Kalan,
through Mohtim Ananat Dass Chela Satnarain Dass, Chela Raghunath Dass
(now deceased) through LRs now Mohtim Ashutosh Joshi and another

...Appellants

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Vikram Singh, Advocate
for the appellants.

AUGUSTINE GEORGE MASHI, J.

Challenge in this appeal is to the order dated 07.04.2022 passed by the learned Single Judge, whereby the writ petition preferred by the appellants challenging the order of eviction from the premises in question in the proceedings initiated under the Haryana Public Premises (Eviction and Rent Recovery), Act, 1972 (hereinafter referred to as the '1972 Act') stands dismissed.

2. Briefly the facts are that a petition under the 1972 Act for eviction of the appellants from the land measuring 116 *kanals*, 15 *marlas*, situated in Village Chhachhrauli, Tehsil Chhachhrauli, District Yamunanagar, which is owned by the State Government being in illegal possession of the appellants, was filed. In the proceedings before the Civil Court which had been preferred by the appellants i.e. Civil Suit No.60 dated 26.09.2003, wherein suit for declaration was filed to the effect that the entry in the column of ownership in the jamabandi as well as khasra girdawari in the name of 'Mandir Sarkari'

regarding the suit land as per the jamabandi for the year 2000-2001 is illegal, null and void and the same is not binding upon the rights of the appellants. Correction of the same in the name of the appellants was also prayed for with a declaration that the entry in the column of ownership in the jamabandi as well as khasra girdawari be set aside and liable to the corrected for the same reasons. Injunction from interference in the suit property was also prayed. The said civil suit was decreed by the trial Court vide judgment dated 22.04.2011 (Annexure P-13), against which appeal was preferred by the State of Haryana, which was allowed vide judgment and decree dated 15.02.2017 (Annexure P-15) and the judgment and decree passed by the trial Court was set aside. Regular Second Appeal No.1984 of 2017 was preferred by the appellants, which was dismissed on 11.09.2017. A detailed order was passed by this Court, as has been reproduced in the order dated 28.07.2021 (Annexure P-21) passed by the Divisional Commissioner, Ambala Division, Ambala, in an appeal preferred by the appellants after the allowing of the petition under the 1972 Act by the revenue authorities. The issue with regard to the ownership of the land having been settled and attained finality, the only question was whether the appellants were holding on to the land legally or illegally.

3. A perusal of the impugned orders passed by the revenue authorities leaves no manner of doubt that the land having been found to be in the ownership of the State Government and there being no valid lease/allotment in favour of the appellants, they were in illegal possession thereof and, therefore, were ordered to be evicted from the premises in question. The Appellate Authority has also come to the same conclusion as has been referred to above.

4. The plea which has been taken by learned counsel for the appellants while challenging the order dated 07.04.2022 passed by the learned Single Judge in CWP No.7045 of 2022 is that no notice under Section 4 of the 1972 Act had been served upon the appellants. In support of this contention, counsel had placed reliance upon the judgment of this Court in ***Karnail Singh Versus Sub Divisional Officer (Civil)-cum-Collector, Sirsa, 2001 (3) R.C.R. (Civil) 289*** as well as ***Sunita Devi Versus The Commissioner, Rohtak Division, Rohtak 2008 (1) R.C.R. (Civil) 720***, which judgments were relied upon by him before the learned Single Judge as well.

5. Perusal of the pleadings would show that proper notice had been served upon the appellants which fact could not be disputed by the counsel. However, he has sought to project as if notice under Section 4 of the 1972 Act had not been served upon the appellants on the basis of the judgments on which he has placed reliance before the learned Single Judge. This plea of learned counsel for the appellants is unacceptable in the light of the admitted position that notice had been duly served upon the appellants for a petition for eviction.

6. The judgments, on which reliance has been placed, relate to an issue of non-issuance of any notice of the eviction petition which is not the position in the present case. The stand, therefore, of the counsel for the appellants has rightly been rejected by the learned Single Judge. That apart, on facts, there are clear findings by the Civil Court with regard to the ownership of the land being that of the State Government and secondly the findings of the revenue authorities that the appellants are not in legal possession of the land in question which is apparent from the revenue

record and because of there being no evidence at the hands of the appellants which would justify or legalize their possession over the land in question.

7. In view of the above orders passed by the revenue authorities as well as the learned Single Judge being based upon proper appreciation of the pleadings and findings so recorded being based upon the evidence led by the parties with there being no illegality in the same, the present appeal do not call for any interference by us and, therefore, the same stands dismissed.

8. In the light of dismissal of the appeal, CM No.805-LPA of 2022 stands disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 22nd, 2022
Puneet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No