

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

Sr. No.121

Civil Writ Petition No.10297 of 2022

Date of Decision : May 20, 2022

Shiv Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Satwant Singh Rangî, Advocate, for the petitioners.

Mr. Arun K. Kaundal, DAG, Punjab.

SUDHIR MITTAL, J. (ORAL)

For eviction of the petitioners and their predecessors-in-interest, a petition was filed under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973. The basis of the petition was that the land in possession of the petitioners had been transferred in favour of the Forest Department by the Irrigation Department and possession over the public property was unauthorized. The petition was allowed and eviction order dated 02.09.2011 was passed by the Collector. Appeal was dismissed vide order dated 22.02.2012. The present writ petition has been filed challenging the aforementioned orders as notices of eviction have been received in the year 2022.

Learned counsel for the petitioners has submitted that there is no delay in filing the writ petition. The persons who were earlier following the case died in the year 2014-15 and the petitioners acquired knowledge of the pendency of the litigation only on receipt of notices of eviction. On

merits, it has been submitted that the impugned orders are illegal because witness from the Forest Department had admitted in his cross-examination that there was nothing on record to show that the land was owned by the Forest Department. Further, the eviction petition itself was not maintainable as earlier petitions had been filed and they had been dismissed as withdrawn.

The aforementioned arguments, though attractive, cannot succeed. Admittedly, the persons who were following the case passed away in the year 2014-15 which was after three years of the dismissal of the appeal. Thus, it is evident that the said persons were not interested in challenging the orders against them. Even if the petitioners did not have knowledge of the litigation, it would make no difference. The predecessors of the petitioners did not choose to challenge the orders against them within a reasonable time. Accordingly, the petitioners are estopped from filing this writ petition.

Even on merits, the petitioners have no case. Assuming that the official of the Forest Department had admitted that there was no record to show that the land belongs to the Forest Department, the land in dispute does not cease to be public property as admittedly it was transferred to the Forest Department by the Irrigation Department. Regarding the objection that the eviction petition was barred by law as the earlier petition had been dismissed as withdrawn cannot also be accepted because the Collector has recorded that the earlier petition was dismissed as withdrawn with liberty to file a fresh one as certain respondents therein had died. It is not clear from the order that filing and withdrawal of a subsequent petition was also

brought to the notice of the Collector and thus, the argument cannot be raised for the first time in the writ petition.

Faced with this situation, learned counsel for the petitioners wishes to withdraw this writ petition with liberty to approach the concerned authorities for the necessary relief.

Dismissed as withdrawn with the aforementioned liberty.

May 20, 2022

Ankur

(SUDHIR MITTAL)
JUDGE

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