

CWP-10856-2022

Date of Decision: 20.05.2022

Davinder Kumar and others

....Petitioners

VS

Punjab Waqf Board

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Sunil Chadha, Sr. Advocate with
Mr. Tara Dutt, Advocate
for the petitioners

SUDHIR MITTAL, J. (Oral)

The petitioners were granted lease of properties in their possession at different points in time. Thereafter, rent was deposited regularly and the petitioners have been in possession for periods ranging from 12 years to 74 years. For periods ranging from 11 years to 27 years the rent has not been paid allegedly because the same was not accepted by the respondent. Now, notices dated 28.12.2021 have been issued under Section 54(1) of the Wakf Act, 1995 for removal of the encroachment as allegedly the petitioners have become encroachers on account of non-payment of rent. The present writ petition has been filed challenging the said notices.

Learned senior counsel for the petitioners submits that the impugned notices are malafide and without jurisdiction in view of the fact that the petitioners are holders of valid leases. Although the lease period was for 11 months, rent has been accepted for periods ranging from 19 years to 51 years. Merely, because the respondent has stopped accepting rent would not make the petitioners 'encroachers'. The petitioners are willing to pay the entire arrears of rent and are also willing to pay enhanced rent in accordance with Wakf Properties Lease Rules,

I am unable to appreciate the arguments as the writ petition has been filed against a notice. The statute provides that noticee can submit objections to notice issued under Section 54 of the Act where after the Chief Executive Officer is required to pass an order and in case the order is of eviction, to approach the Tribunal for grant of an order of eviction. This procedure has not been followed and, thus, the apprehension that the petitioners would be dispossessed within a short period is misconceived. The petitioners have the right to file objections where after the procedure prescribed by law has to be followed before an order of eviction is passed.

Faced with this situation, leaned senior counsel for the petitioners submits that he may be permitted to withdraw this writ petition with liberty to file objections within two weeks from today.

Dismissed as withdrawn with the aforementioned liberty.

If objections are filed within a period of two weeks from today they shall be considered in accordance with law.

20.05.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No