

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

Sr. No.151

**CWP-12094-2022 (O&M)
Date of decision : 30.05.2022**

Pawan Kumar and another

..... Petitioners

VERSUS

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Jawahar Narang, Advocate and
Mr. Lakshay Sikri, Advocate, for the petitioners.

Mrs. Anita Balyan, Advocate,
for the respondents-Railways.

SUDHIR MITTAL, J. (Oral)

The petitioners purchased the land in dispute from Manohar Lal and Tek Chand in the year 2003/2013 respectively. Thereafter, they had been utilizing their land for an office. Prior to the purchase aforementioned, Manohar Lal and Tek Chand had approached the civil Court for grant of decree of injunction as the railway authorities intended to evict them forcibly. Injunction was granted by the civil Court and it was directed that the predecessor of the petitioners cannot be evicted except in accordance with law. Now, in the proceedings initiated by the railway authorities under the Public Premise (Eviction of Unauthorized Occupant) Act, 1971 (hereinafter referred to as the Act), the petitioners have been ordered to be evicted. Their appeals have also dismissed.

Learned counsel for the petitioners submits that in the instant proceedings, the petitioners had raised the objections that the title of the railway authorities is in dispute and thus, the authorities under the Act had no jurisdiction to pass the order of eviction. Reliance has been placed upon

Kaikhosrou (Chick) Kavasji Framji Vs. Union of India and another, 2019 (20) SCC 705.

The argument is mis-conceived. A perusal of the judgment and decree dated 04.05.1987 passed in the earlier civil proceedings shows that in para No.7 thereof, it has been recorded as follows:-

‘7. Accordingly, both the parties have to led evidence with respect to title, nor even the suit land been at the shops stands demarcated whether or not the same is of Railway Department, the question of title remains undetermined but the evidence of plaintiff regarding their possession of shop No.2, 22, 17, 15, 9, 16, 3 and 10 respectively going un rebutted, plaintiff suit succeed.’

The above observation does not conclude that the railway authorities had failed to establish their title. Being an injunction suit, the parties had not led any evidence with regard to the title and accordingly, the observation has been returned that question of title remains undetermined. This observation cannot create a *prima facie* case in favour of the petitioners. Thus, the judgment in Kaikhosrou (Chick) Kavasji Framji (supra) is not attracted. Apart from the aforementioned observation, nothing else has been brought to my notice to show that the railway authorities do not have title in respect of the land in dispute.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

30.05.2022

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes / No

Yes/ No