

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

Sr. No.111

CWP-14327-2022 (O&M)
Date of decision : 08.07.2022

Jatinder Kumar and others

..... Petitioners

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Akhilesh Vyas, Advocate, for the petitioners.

SUDHIR MITTAL, J. (Oral)

The petitioners claim themselves to be tenants of shops set up on land comprised in khasra No.928 (5-1) and khasra No.394/929 (1-11) as per jamabandi for the year 2010-11 of Amritsar-II. This land is part of the new Rialto Cinema and measures 06 kanals and 12 marlas. They are aggrieved by order dated 24.02.2021, whereby, the Deputy Commissioner, Amritsar, has been directed to retrieve the property from unauthorized occupants. Consequently, notices dated 01.06.2022 and 28.06.2022 have been issued for removal of possession.

A perusal of the order dated 24.02.2021 shows that one Navsher Singh son of late Sh. Harbhajan Singh Sandhu had filed a petition for directions to comply with order dated 30.10.2015 passed by the then Sub-Divisional Magistrate, Amritsar-II for sanction of mutation in respect of the aforementioned land. The petition was rejected and disciplinary action was ordered against the then Sub-Divisional Magistrate as he had no jurisdiction to pass the order upon which reliance was placed and that it was attempt to usurp government property. Accordingly, directions were issued to the Collector to retrieve the property from unauthorized occupants and for

recovery of mesne profits from the petitioners. An FIR was also ordered to be registered against the petitioner therein.

Learned counsel for the petitioners submits that the petitioners were not party to the said proceedings and thus, are not bound by the order. They are tenants of late Sh. Harbhajan Singh Sandhu and to prove this point, reliance has been placed upon rent deeds dated 30.10.1984 (Annexure P-5) and 06.11.1984 (Annexure P-6). It has further been submitted that the petitioners have been paying rent to Sh. Harbhajan Singh Sandhu and by virtue of the impugned order dated 24.02.2020, the government has been declared to be the owner. Thus, the government may take rent from the petitioners, but it cannot evict them without taking recourse to proceedings in accordance with law.

A perusal of the record shows that the rent deeds Annexures P-5 and P-6 are signed by the alleged tenants only. They do not bear the signature of the landlord i.e. Sh. Harbhajan Singh Sandhu. No rent receipts have been placed on record and thus, the petitioners have miserably failed to establish that they are the tenants. Even if, the factum of tenancy is assumed, Sh. Harbhajan Singh Sandhu had no right in respect of the property in dispute and could not have rented it out. It has been found as a matter of fact that the property is owned by the State of Punjab and Sh. Harbhajan Singh Sandhu was nothing more than an encroacher thereof. No rights could have been created in favour of the petitioners by him. The petitioners are enjoying illegal possession of Government land and are utilizing the same for personal benefit. Their possession, thus, deserves to be removed.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

08.07.2022

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No