

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

Sr. No.114

**CWP-18885-2022 (O&M)
Date of decision : 26.08.2022**

Billu Singh

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.S. Khiva, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

A petition under the Punjab Public Premises and Land (Eviction & Rent Recovery) Act, 1973 (hereinafter referred to as the Act) was filed on 19.01.2016 for ejectment of the petitioner on the ground of being in unauthorized possession of land measuring 41 kanals and 06 marlas. The eviction petition was dismissed. Appeal of the Nagar Panchayat was however, allowed and the matter was remanded for a fresh decision. After remand, eviction was ordered vide order dated 26.07.2019. Appeal there-against has been dismissed vide order dated 18.05.2022.

Learned counsel for the petitioner has submitted that no prior notice under Section 4 and 5 of the Act was issued. The same is mandatory and non-issuance thereof has resulted in vitiation of the proceedings. He has also argued that the petitioner has been recorded in the revenue record as '*gair marusi*' and thus, he is not an 'unauthorized occupant'. Thus, the impugned orders are without jurisdiction also.

In support of the argument that no notice under Section 4 and 5 of the Act was issued, no evidence has been produced or referred to. On the contrary, it has been admitted that after filing of the eviction petition, notice

petition, notice under Section 4 of the Act should have been issued. This argument cannot be accepted as it is contrary to the statute. Section 4 of the Act does not prescribe that a notice should be issued prior to the filing of the eviction petition. In this view of the matter, reliance upon Sunta Devi Vs. The Commissioner, Rohtak Division, Rohtak 2008 (1) R.C.R (Civil) 720 is mis-placed. The argument is accordingly, rejected.

The next argument is regarding entry of '*gair marusi*' in the revenue record. It is common knowledge that the entry of '*gair marusi*' is made when a person is in possession of agricultural land and his possession cannot be attributed to any legal or valid mode. Reliance upon Balkar Singh and another Vs. Commissioner, Jullundur Division, Jullunder and another 1989 P.L.J 101 does not promote the cause of the petitioner as in the said case, there was admittedly the relationship of landlord and tenant between the parties. In Bhartu Vs. The Collector, Sonapat, 1987 R.R.R 29, a finding was returned in favour of the petitioner therein as mutation by virtue of which the land had been mutated, in the name of the Gram Panchayat, had been set aside by this Court in an earlier writ petition. No proposition of law has been laid down that entry of '*gair marusi*' in the revenue record denotes lawful possession.

In view of the above, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

26.08.2022

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes / No

Yes/ No