

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-7156-2023

Date of decision : 19.04.2023

Gurnam Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr. Davinder Singh, Advocate
for the petitioners.Mr.Ferry Sofat, Addl.A.G. Punjab
for respondents no.1 and 2.Mr. Vipual Aggarwal, Sr. Panel Counsel
for respondent no.3-UOI.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the notice dated 20.03.2023 (Annexure P-1) issued to the petitioners under sub Section (2) of Section 5-A of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (in short “the Act”).

2. On 11.04.2023, this Court was pleased to pass the following order:-

“Learned State counsel has pointed out that in the present case, notices under sub section (2) of Section 5-A of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (in short “the Act”) have been issued by the Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. Punjab although, the averments made in the notices specifically state that the land in question belongs to the Government of India, Ministry of Defence and thus,

Union of India is a necessary party in the present case.

Learned counsel for the petitioner has made an oral prayer to implead Union of India through Ministry of Defence as respondent no.3 in the present writ petition.

On the oral request of the petitioner, Union of India through the Ministry of Defence is ordered to be impleaded as respondent no.3.

Registry is directed to add respondent no.3 in the memo of parties.

At the request of this Court, Mr. Vipul Aggarwal, Advocate has appeared on behalf of respondent no.3 and prays for a short adjournment to verify as to whether, in pursuance of notice under sub section (2) of Section 5-A of the Act (Annexure P-1 colly), any order has been passed under Section 5-A or if the said notice is an order in itself.

Learned counsel for respondent no.3 would also seek instructions on the aspect whether the order passed under Section 5-A(2) is appealable under Section 9 or not.

Adjourned to 13.04.2023.

To be taken up after the urgent list.

Till the next date of hearing, status quo regarding possession be maintained.

April 11, 2023.”

3. Learned counsel for added respondent no.3-UOI, on instructions, has submitted that Annexure P-1 is a notice under Section 5-A of the Act and an order under the Act after considering the reply filed by the petitioners, is yet to be passed and thus, the present petition is pre-mature. It is further submitted that the authority, after considering the reply (Annexure P-2 colly) of the petitioners, would pass an order, in accordance with law and till the time the said order is not passed, no coercive action would be taken. It is stated that the said statement should not be construed as an opinion on the merits of the case and the authority would be at liberty to decide the case independently, in accordance with law.

4. Learned counsel for the petitioners has submitted that in view

of the statement made by learned counsel for UOI, the present petition has been rendered infructuous. It is however prayed that UOI be bound by the statement made by learned counsel for UOI.

5. Keeping in view the above said facts and circumstances, the present petition is disposed of as having been rendered infructuous. Respondent no.3 would be bound by the statement made before this Court.

(VIKAS BAHL)
JUDGE

April 19, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No