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

CWP-9340-2023

Date of decision : 08.05.2023

Samaj Mandir and others

...Petitioners

Versus

Municipal Corporation, Karnal and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Manoj Tanwar, Advocate for the petitioners.

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**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 setting aside the order dated 15.07.2021 (Annexure P-1) passed by the Court of Joint Commissioner, Municipal Corporation, Karnal (respondent No.2) and order dated 22.03.2023 (Annexure P-2) passed by the Court of the Commissioner-cum-Appellate Authority, Municipal Corporation, Karnal, vide which, the petitioners were directed to vacate the premises/land in question.

2. The brief facts of the present case are that on the complaint of one Ashok Kumar and other residents of Village Daha Jagir, in which, it was alleged that the petitioners had encroached upon the land owned by the Municipal Corporation, Karnal and an inquiry was conducted and it was

found that the petitioners had encroached upon the land measuring 15 kanals 18 marlas comprised in Khewat No.543, Khatauni No.673, Rectangle No.22, Khasra No.8(8-0), 13/2(7-18) situated in Village Daha, Tehsil and District Karnal which was under the ownership of Municipal Corporation, Karnal. A petition No.111 dated 27.09.2018 was filed by the Municipal Corporation, Karnal under Sections 3 and 4 read with Section 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 and after receipt of the same, a show cause notice under Section 408 of the Haryana Municipal Corporation Act, 1994 was issued vide Memo No.1/MCK dated 06.04.2021 directing the petitioners to vacate the land in question within a period of seven days from the date of service of the said notice. Liberty was granted to the petitioners to file reply to the said show cause notice along with supporting documents and to come present in the office to explain their position. In reply dated 27.04.2021 to the show cause notice dated 06.04.2021, the respondents therein (petitioners herein) had stated that they were not in illegal possession of the land in question and had been in possession of the said land for several years. The Joint Commissioner, Municipal Corporation, Karnal, after going through the reply to the show cause notice as well as after hearing both the parties, passed the eviction order under Section 408(A)(2) with directions to the petitioners to vacate the land in question and to demolish the unauthorized construction and to restore it to its original state. In the order, it was observed that as per jamabandi for the year 2014-15, Municipal Corporation, Karnal was shown to be the owner of the land in question and that the petitioners had failed to show any right over the land in question and that they had illegally

encroached upon the land measuring 15 kanals 18 marlas. It was further observed that even in the earlier jamabandi for the year 2009-10, Gram Panchayat of Village Daha was shown to be the owner of the land in question and after the Municipal Corporation, Karnal came into operation, the management and control over the property owned by the Gram Panchayat of Village Daha came under the control of the Municipal Corporation, Karnal. An appeal filed by the petitioners was dismissed by the Commissioner-cum-Appellate Authority, Haryana, vide order dated 22.03.2023. In the said order, reliance was placed upon the abovesaid jamabandi(s) to hold that it was the Municipal Corporation, Karnal who was the owner of the said property and it was also observed that the petitioners had failed to produce any record to show that the land in question was ever allotted to the petitioners. It was found that the petitioners were in unauthorized possession of the land in question and thus, their appeal was dismissed.

3. Learned counsel for the petitioners has submitted that the petitioners have been in possession of the property in question for several years. It is further submitted that a perusal of jamabandi (Annexure P-7) which is at page 73 of the paper book would show that the petitioners are owners of Khasra No.22//7/2 (1-12 chahi) and 7/3 (3-8 chahi). It is contended that the said jamabandi shows that the petitioners are the owners and not the Municipal Corporation or the Gram Panchayat, and the said jamabandi is of the year 2019-20 which is the latest jamabandi.

4. This Court has heard learned counsel for the petitioners and has perused the paper book.

5. Petition No.111 dated 27.09.2018 was filed by the Municipal Corporation, Karnal under Sections 3 and 4 read with Section 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 with respect to land measuring 15 kanals and 18 marlas comprised in Khewat No.543, Khatauni No.673, Rectangle No.22, Khasra No.8(8-0), 13/2(7-18) situated in Village Daha, Tehsil and District Karnal on the allegations that the respondents (petitioners herein) had encroached upon the said land. A show cause notice was issued and after granting due opportunity of hearing to the parties, both the authorities had come to the conclusion that as per the jamabandi for the year 2014-15, Municipal Corporation, Karnal was shown to be the owner of the land in question. Jamabandi (Annexure P-7) of the year 2019-20, which is at page 73 of the paper book which was referred to by learned counsel for the petitioners, pertains to a separate land inasmuch as the land depicted in the jamabandi is Rectangle No.22//7/2 (1-12) and 7/3 (3-8) which is not the land in question. The jamabandi with respect to Rectangle No.22, Khasra No.8(8-0) and 13/2 (7-18) of Village Daha, Tehsil and District Karnal for the year 2014-15 has not been annexed, although, jamabandi for the year 2014-15 with respect to other land which is not in question, has been annexed. There is no rebuttal to the fact that as per jamabandi for the year 2014-15, the Municipal Corporation, Karnal is shown to be the owner of the land in question. Presumption of truth is attached to the entries of ownership in jamabandi(s) and the petitioners have not challenged the said entries. Even no arguments have been raised to show that any entry made in the jamabandi for the year 2014-15, in which, Municipal Corporation, Karnal is shown to be the owner of the land in question, is

wrong or against law. The Authorities have thus, correctly come to the conclusion that it is the Municipal Corporation, Karnal who is the owner of the land in question. The petitioners are neither owners nor lessee of the premises in question. The possession of the petitioners is thus, apparently unauthorized and both the authorities have rightly passed the order of eviction against the petitioners. The argument of learned counsel for the petitioners that the petitioners are in possession since long, even if taken to be true, does not in any way further the case of the petitioners because mere possession/long possession would not entitle the petitioners to hold on to the property which is owned by Municipal Corporation, Karnal. No law has been cited before this Court that on the basis of possession/long possession, the orders of eviction passed on the application filed by the owner i.e., Municipal Corporation, Karnal in the present case, deserve to be set aside.

6. Keeping in view the abovesaid facts and circumstances, finding no merit in the present writ petition, same is accordingly dismissed.

**08.05.2023***Pawan***(VIKAS BAHL)  
JUDGE****Whether speaking/reasoned:-                      Yes/No****Whether reportable:-                                      Yes/No**