

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-11991-2021 (O&M)
Date of Decision:-03.10.2023

M/s Siya Ram Apple Merchants

... Petitioner

Versus

State Agricultural Marketing Board and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rakesh Bhatia, Advocate, for the petitioner.

Mr. Padam Kant Dwivedi, Advocate, for the respondents.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking issuance of a writ in the nature of Certiorari for quashing of letter dated 19.4.2021 (Annexure P-3) and also letters dated 30.4.2021 and 18.5.2021 (Annexures P-5 and P-7), which are all to the effect that petitioner should furnish fresh rent deed in respect of the premises in question for the purpose of renewal of his licence to carry on business of 'commission agent'.
2. It is the specific case of the petitioner that he had been issued a licence to carry on business of commission agent and sale and purchase of agriculture produce at SCF No.106, New Vegetable & Fruit Market, Sector 20,

Panchkula, since the year 2018 under the name and style of M/s Siya Ram Apple Merchants. The petitioner had applied for renewal of the said licence on 16.4.2021 w.e.f. 01.04.2021 to 31.3.2024 i.e. for a period of 3 years, but in response thereto, the respondents sent a letter dated 19.4.2021 (Annexure P-3) which read as under:-

“On the above cited subject, it is intimated that Form "F" for renewal of above said Licence of Firm M/s Siya Ram Apple Merchants has been received from you today i.e 19.04.2021 in this office vide registered post along with Cheque of Rs. 600/- of Axis Bank Ltd. bearing Cheque number 071965. You have not attached fresh rent deed and Licence with your application. You have also - not given submission whether there is any change in your firm or not.

You are hereby asked to furnish the above said documents alongwith "F" form duly filled and Cheque of Licence Fee, so that your Licence can be renewed further. Your application form alongwith Cheque is hereby returned to you.”

3. Learned counsel for the petitioner submitted that in a relationship of tenant and landlord, the rent deed is not required to be executed every year or at short intervals and that once the same is executed, the parties would remain bound by the same. It has been submitted that as a matter of fact there is some litigation pending between the petitioner and the landlord i.e. Civil Suit titled as *Mukesh Kumar (proprietor of M/s Siya Ram Apple Merchants) Vs. Perminder Kumar and another*, seeking grant of permanent injunction wherein temporary injunction has been granted in favour of the petitioner to the effect that the respondents i.e. the landlords have been restrained from interfering into peaceful possession of the plaintiff. It goes without saying that even in case some time period of tenancy is prescribed in any rent deed but the tenant continues to occupy the premises even beyond the expiry of

the stipulated period, he would assume the character of a statutory tenant and it is only by way of an ejectment petition that he could be evicted from the premises in question. Under these circumstances it rather seems unfair for the market committee to insist upon fresh lease deed/rent deed when any such applicant is already in possession of a premises as a tenant even if as a statutory tenant.

4. Learned counsel representing the respondents has however, submitted that since as of now it has been 2 years since the expiry of licence of the petitioner, it shall be open to the petitioner to apply afresh for issuance of the licence in question and that in case he applies for the same, the same shall be duly considered in accordance with law.
5. Learned counsel for the petitioner has expressed that the petitioner shall apply for issuance of a fresh licence even though the licence in case, the same had been renewed in the year 2021, it would have continued till 2024.
6. This Court has considered the aforesaid submissions.
7. Having regard to the fact that both the parties are *ad idem* that the petitioner could apply afresh for grant of licence and that the same would be considered by the respondents in accordance with law, the instant petition is disposed of with liberty to the petitioner to apply afresh for licence to carry on business of 'commission agent'. In case, any such application is made by the petitioner within a period of 2 weeks from today, the same shall be considered by the respondents in accordance with law and shall be disposed of expeditiously preferably within a period of 4 weeks from filing of such application.

8. As already indicated above, the respondents shall not insist upon a fresh lease deed as the petitioner is stated to be still in possession of the premises in respect of which sale deed had been furnished earlier and in respect of which some litigation is also stated to be pending. Needless to mention, the petitioner shall furnish affidavit deposing categorically with respect to the factum of his possession and the status and character of his possession over the premises in question.

03.10.2023

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No