

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

CWP-15589-2023

Date of decision: 12.09.2023

Women Registered Society, Jind City and another ... Petitioners
Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Munish Mittal, Advocate, for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 30.05.2023 (Annexure P-9) passed by respondent No.2 as well as order dated 06.09.2022 (Annexure P-8) passed by respondent No.3, respectively, whereby, ejection of petitioner-Society has been ordered from the shop in question despite the fact that respondent No.4 has no concern or connection with the shop in question as the shop in question is in ownership of District Rural Development Agency, Jind (for short, 'DRDA'). Further prayer has been made for restoration of the possession of the shop to the petitioners as possession has been taken by the respondents illegally.

As submitted by learned counsel for the petitioner, the shop in dispute was let out to petitioner No.1 in February, 2004 @ Rs.500/- per month by the DRDA. The shop was given on rent as all the women members of the society were below poverty line in order to make their both ends meet. Thereafter, respondent No.4-Zila Parishad, Jind issued letter dated 28.09.2010 to petitioner No.2 for vacating the shop in question. The petitioners filed a civil suit for permanent injunction against DRDA as well as respondent No.4. Upon

notice both DRDA and respondent No.4 appeared before the Court. On hearing both the sides, the trial Court decreed the suit filed by the petitioners vide order dated 16.08.2014 restraining the defendants (DRDA and respondent No.4) from dispossessing the petitioners from the shop in dispute except in due course of law. However, the rent of the premises in dispute was increased to Rs.10,064/- per month w.e.f. 01.01.2011. Thereafter, respondent No.4 filed a petition under Section 4 and 5 of the Haryana Public Premises and Land (Eviction and Land Recovery) Act, 1972 (for short, 'the Act') on 01.05.2015 seeking eviction of the petitioners from the shop in question. Petitioner No.2 was served with notice under Section 4(1) of the Act on 10.12.2015, however, no ground whatsoever was assigned for eviction of the petitioners. Petitioners filed their objections on 15.02.2016 and thereafter, the petitioners were served with another notice under Section 4(1) of the Act on 21.03.2017 and they filed their objections on 19.04.2018. The Collector, Sub Division, Jind, i.e. respondent No.3 without appreciating the evidence on record vide order dated 05.12.2018 allowed the petition filed by respondent No.4 and ordered the ejectment of the petitioners. Aggrieved by the same, the petitioners filed an appeal before respondent No.2-Commissioner, Hisar Division, Hisar, which was allowed vide order dated 19.03.2019 and the order dated 05.12.2018 was set aside and the matter was remanded to respondent No.4 for a decision afresh after granting opportunity to the petitioner to lead evidence. Thereafter, respondent No.3 vide order dated 06.09.2022 ordered ejectment of petitioners and also directed the petitioners to pay rent at the rate of Rs.10,064/- per month w.e.f. 01.01.2011. Being aggrieved by the same, the petitioners preferred an appeal before respondent No.2, however, respondent No.2 illegally dismissed

the same vide impugned order dated 30.05.2023. Respondent No.4 issued notice dated 14.06.2023 directing petitioner No.2 to vacate the shop in question by 15.06.2023. On 15.06.2023, respondent No.4 has taken forcible possession of the shop from the petitioners. Hence, the petitioners have approached this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioners that the shop in question was let out to the petitioners in February 2004 @ Rs.500/- per month. He submits that petitioner No.1 has already paid rent from 01.01.2010 to 31.12.2010 amounting to Rs.6,000/-. It is submitted that tenant in the shop in dispute, is petitioner No.1 and no notice had been served upon petitioner No.1, whereas, the same was served upon petitioner No.2 in her individual capacity. It is submitted that as there was no notice served, the eviction proceedings carried out are violative of the principle of natural justice. It is submitted that the civil suit filed by the petitioner was decreed on 16.08.2014. He has submitted that neither DRDA or Zila Parishad, Jind informed the petitioners about the transfer of ownership of the tenanted premises to respondent No.4. It is submitted that the Samiti was paying rent to DRDA but subsequently, DRDA refused to accept the same on the ground that the case was pending before the Civil Court. He has submitted that even thereafter the rent from the petitioners was not accepted, which was @ Rs.500/- per month. It is submitted that respondent No.3 without appreciating the evidence on record allowed the petition filed under Sections 4 and 5 of the Act vide order dated 05.12.2018 and ordered ejectment of the petitioners, however, in the appeal filed by the petitioners the same was set aside and the matter was remanded to respondent No.4 for decision afresh after affording due

opportunity to the petitioners to lead their evidence vide order dated 19.03.2019. He has submitted that thereafter in the fresh proceedings, respondent No.3 again ordered ejectment of the petitioners vide order dated 06.09.2022 and directed the petitioners to pay the rent @ Rs.10,064/- per month. It is submitted that the appeal filed by the petitioners was illegally dismissed vide impugned order dated 30.05.2023. He has submitted that the rent being charged from the adjacent shop is less than the rent demanded from the petitioners which is @ Rs.10,064/- per month. It is further vehemently contended that respondent No.4 took forcible possession of the property on 15.06.2023 without affording any opportunity to the petitioners. He has submitted that the impugned orders being against the evidence on record and the law settled, deserve to be set aside.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the shop in dispute was given on rent to Mahila Utthan Samiti in February, 2004 for a period of six months @ Rs.500/- per month on certain conditions. It was also a condition that after six months, the conditions would be reconsidered. Thereafter, the Samiti was found to have violated all the conditions of the allotment of the shop and thus, the purpose of giving the shop were found to have been defeated. Resultantly, DRDA, Jind vide letter dated 28.09.2010 directed to the petitioners to hand over the goods provided by DRDA and the possession of the shop to DRDA. However, the petitioners filed a civil suit which was decreed vide order dated 16.08.2014 restraining DRDA respondent No.4 from dispossessing the petitioners from the shop in dispute except in due course of law. As per record,

the rent was paid by the petitioners from 01.01.2010 to 31.12.2010 to DRDA, Jind. Thus, from 01.01.2011, no rent was paid to respondent-Zila Parishad. It was also found that this Samiti not only violated the terms and conditions rather sublet the shop to some other person for personal benefit. Evidence was led by both the parties before the Civil Court. Ownership of respondent-Zila Parishad was established. In view of direction given by the Civil Court, petition under Sections 4 and 5 of the Act was filed for the eviction of the petitioners and thus, proceedings were initiated against the petitioners in accordance with law. In the proceedings initiated before the Collector, as evident from the record, counsel for the petitioners did not appear on 15.06.2022, 28.07.2022 and 30.08.2022 and despite having been granted last opportunity on 06.09.2022 neither the counsel for the petitioners appeared nor the evidence was concluded. Resultantly, defence of the petitioners in the proceedings before the Collector was closed. In the proceedings before the Collector, the petitioners failed to produce any agreement regarding the rent of the shop in question and thus, possession of the petitioners of the shop was found to be unauthorised and illegal. Resultantly, the petitioners were evicted from the shop vide impugned order dated 06.09.2022. The petitioners filed an appeal before the Commissioner, Hisar Division. Notice was issued to other side and both the parties were heard and record was re-appreciated. As the petitioners failed to prove any illegality in the impugned order, appeal was dismissed by the Commissioner vide order dated 30.05.2023. It is apparent that though at the initial stage premises in dispute was given on rent to the Mahila Utthan Samiti in February 2004 subject to certain conditions for a period of six months, however, lateron the conditions as enumerated were found to have been

violated. No agreement was produced by the petitioners before the Court after 01.01.2011. Thus, neither any agreement could be produced by the petitioner nor the rent had been paid. This Court finds no perversity in the impugned orders passed and thus, the petition being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

12.09.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No