

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

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2023:PHHC:053791-DB

Civil Writ Petition No.14161 of 2017 (O&M)

Date of Decision: April 18th, 2023

M/s Mool Chand Jai Bhagwan

...Petitioner

Versus

Haryana State Agricultural Marketing Board and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ravi Kapur, Advocate
for the petitioner.

Mr. Pritish Goel, Advocate
for Mr. Amar Vivek, Advocate
for respondents-HSAMB.

Mr. Rakesh Dhiman, Legal Aid Counsel
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-3840-CWP-2020

Prayer in this application is for placing on record the affidavit of petitioner along with letter dated 29.08.2019 issued by respondent No.1 as Annexure P-20.

Application is allowed subject to just exceptions.

Letter dated 29.08.2019 issued by respondent No.1 is taken on record as Annexure P-20.

CWP No.14161 of 2017 (O&M)

Learned counsel for the petitioner contends that the petitioner is aggrieved of the order dated 02.06.2017 (Annexure P-19) conveyed to the petitioner on 13.06.2017, whereby allotment of shop to the petitioner in New Grain Market, Charkhi Dadri, on 13.12.2010 (Annexure P-11), has been cancelled on a complaint which was submitted by respondent No.4-

Madhu Bansal @ Madhu Devi wife of Shri Jai Bhagwan, who is the brother of the petitioner and had given his consent for allotment of the shop in the name of the petitioner. Affidavit dated 02.07.2009 (Annexure P-6) to this effect has been appended along with the writ petition. The other two brothers had also given their affidavits, copies of which have been appended along with the writ petition as Annexures P-7 and P-8. Counsel on this basis contends that the complaint which has been made by respondent No.4 does not hold the field as the same has been made after a period of seven years, when the allotment of the shop has been made in pursuance to the affidavits filed by all the three brothers and other formalities have also been completed.

2. The grievance which has been highlighted is that the husband of respondent No.4 also had a share in the petitioner firm and, therefore, the allotment in the name of the petitioner alone as a proprietor of the firm is unsustainable. This the counsel contends is not acceptable in the light of the affidavit, which has been filed by the brother i.e. The husband of respondent No.4.

3. Learned counsel for the respondent Nos.2 and 3 submits that the reason for cancellation of the allotment of Shop No.248, NGM, Charkhi Dadri, was because of the complaint which has been filed by respondent No.4. His assertion is that because of the said complaint, not only the allotment was cancelled and as a consequence thereof, the licence had also not been renewed nor has the conveyance deed been executed.

4. Learned counsel for respondent No.4 has contended that the husband of the said respondent had a share in the petitioner firm and, therefore, she has rightly submitted the complaint. He, however, could not

dispute the fact that the husband of the said respondent namely Jai Bhagwan had filed an affidavit, which virtually leaves the complaint of respondent No.4 without any basis.

5. Having considered the submissions made by the counsel for the parties and keeping in view the fact that all the three brothers of the petitioner, who were the persons having share in the petitioner firm having given their affidavit stating therein that they do not have any objection if the shop is allotted to petitioner-Jagdish Parshad as proprietor of the petitioner firm M/s Mool Chand Jai Bhagwan as they had given their respective shares, the allotment in favour of the petitioner was fully justified. It is also not in dispute that the complaint which has been filed by respondent No.4 was because of a matrimonial dispute between the said respondent No.4 with her husband.

6. If that be the basis, the same in any case, cannot be said to be *bona fide*. The person, who would be entitled to any share in the petitioner firm, was her husband, who had willingly relinquished the share in favour of Jagdish Parshad, the proprietor of the petitioner firm.

7. That apart, it is an admitted position that seven firms, who were also allotted shops along with the petitioner firm had been issued renewed licence and further they have been held entitled to execution of the conveyance deed. Reference in this regard may be made to the communication dated 29.08.2019 (Annexure P-20), where the Chief Administrator, HSAM Board, Panchkula, has communicated to the Secretary-cum-Executive Officer, Market Committee, Charkhi Dadri, on the basis of the opinion of the Advocate General, Haryana. The conditions which have been imposed therein having been fulfilled by the petitioner,

therefore, cannot be an impediment for non-execution of the conveyance deed.

8. In the light of the above, the writ petition is allowed.

9. The impugned order dated 02.06.2017 (Annexure P-19) cancelling the allotment of the shop in favour of the petitioner in New Grain Market, Charkhi Dadri, stands quashed and a direction is issued to the respondents to consider the claim of the petitioner for renewal of the licence as also for issuance of the conveyance deed. The said exercise be completed within a period of six weeks from today.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

April 18th, 2023
Puneet

**(HARPREET SINGH BRAR)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No