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

CWP-28773-2013 (O&M)

Date of decision : 08.08.2023

Jagvir Singh Goraya

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Paramjit S. Goraya, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab
for respondents No.1 and 2.

Mr. Karan Chaudhary, Advocate
for respondents No.3 and 4.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for issuance of directions declaring that respondent No.4 is a society and neither respondent No.4 nor its property is a public property and the Public Premises (Eviction of Unauthorized Occupants) Act is not applicable qua the shops No.1, 2 & 3 in which petitioner is a tenant and paid rent upto 31.03.2014 and for quashing of proceedings under Punjab Public Premises (Eviction of Unauthorized Occupants) Act 1973/74 pending before respondent No.3.

This Court issued notice of motion on 04.07.2014 and directed the parties to maintain *status quo*.

It has been contended by counsel for the petitioner that petitioner has taken on rent the shops belonging to respondent No.4 and was

paying rent regularly. It was respondent No.4 who filed the petition under Sections 5 and 6 of The Punjab Public Premises (Eviction of Unauthorized Occupants) Act, 1973/1974 (for short 'the Act') for ejectment and recovery of rent from the petitioner before the SDO (Civil) exercising the power of the Collector, Gurdaspur. It is submitted that besides other grounds contended in the petition, the primary ground of the petitioner was that in view of the law laid down by the Hon'ble Supreme Court in Civil Appeal No.1970 of 2014 titled as ***Dr. Suhas H. Pophale Vs. Oriental Insurance Co. Ltd and its Estate Officer*** decided on 11.02.2014, the property in dispute is not amenable to the provisions of the Punjab Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'Public Premises Act') and thus, the petition filed by the respondent for its eviction is not maintainable under the Public Premises Act. He has submitted that the petition filed being not maintainable, the eviction sought by respondent No.4 is null and void.

Per contra counsel for the respondents has vehemently opposed the submissions made by counsel for the petitioner. He submits that the judgment passed by the Hon'ble Supreme Court as relied upon by the petitioner is totally distinguishable on the facts and circumstances of the case and thus, is not applicable. He has submitted that the present petition is totally an abuse of the process of the Court as the same has been filed only in order to delay the trial pending before the SDO (Civil).

Secretary, Red Cross Society is present in person in the Court and on interaction with the Court, he has submitted that the petitioner has signed no agreement with the answering respondent, however, he is paying nominal rent. He submits that rest of the persons to whom the shops were rented out by them have entered into agreement with the

respondent and are paying the enhanced rent as well. He has submitted that the property in dispute is very much amenable to the provisions of Public Premises Act and the present petition has been filed only in order to delay the eviction proceedings. It is submitted that the petitioner is in the occupation of the property without signing any agreement and is running into heavy arrears of the rent to be paid to the answering respondent.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that petitioner is the tenant who has taken the shops owned by the respondent No.4 on rent. Respondent No.4 has filed the application under Sections 5 and 6 of the Act. Record of the case reveals that at one stage the parties were referred to the Mediation Centre as well by this Court. The precise submissions made by counsel for the petitioner is regarding the maintainability of the petition filed before the SDO(Civil) in the light of law laid down by the Hon'ble Supreme Court in abovesaid case. There is no gainsaying that the law laid down by the Hon'ble Supreme Court as relied upon by the petitioner is the law of the land and the petitioner has every right to rely upon the same, before the Court of SDO (Civil) as well where the petition filed under Sections 5 and 7 of the Public Premises Act is pending adjudication. However the petitioner without raising any objection regarding the maintainability of the petition before the SDO (Civil) has directly approached this Court. Besides this, he has taken other grounds as well which are totally disputed questions of facts need to be decided on the basis of evidence to be led by both the sides. Thus, this Court is of the view that the petitioner should be given the liberty to raise all his pleas before the competent Court of jurisdiction i.e. SDO(Civil) where the petition filed under the Punjab Public Premises Act is pending adjudication.

The present petition is therefore disposed of with liberty to the petitioner to raise all his pleas regarding the maintainability of the petition and other grounds pleaded herein before the Court of competent jurisdiction i.e. Court of SDO (Civil) where the petition is pending adjudication. The parties through their counsel are directed to appear in the Court of SDO (Civil) on 23.08.2023 who will commence the proceedings and conclude the same as per law after hearing both sides within a period of six months from today.

In view of the disposal of main case, there is no need to pass any order in the miscellaneous applications and the same are also disposed of.

08.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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