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

CWP No.21604 of 2020

Date of Decision: 19.12.2023

Ramotar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. J. P. Sharma, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for quashing the impugned order dated 25.07.2012 (Annexure P-1) passed by respondent No.3 and impugned order dated 11.10.2019 (Annexure P-2) passed by respondent No.2 being arbitrary, unconstitutional and against the law and cannot be sustained in the eyes of law and dismiss the petition under Sections 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 filed by respondent No.4 before respondent No.3 against the present petitioner. Further prayer has been made for staying the operation of impugned orders Annexures P-1 and P-2 during the pendency of the present writ petition

The present petition has arisen from the order passed by the Commissioner, Gurugram Division, Gurugram dated 11.10.2019

(Annexure P-2) wherein appeal filed by the petitioner against the order dated 25.07.2012 passed by the Collector, Sub Division, Narnaul was dismissed and thus, eviction of the petitioner had been affirmed by the learned Commissioner.

Learned counsel for the petitioner has contended that the petitioner is continuously residing by raising pucca construction of his house in Khasra No.4725. He submits that respondent No.4 filed the petition under Sections 4, 5 & 7 of the Haryana Public Premises and Land (Eviction & Rent Recovery) Act, 1972 (hereinafter referred to as 'the Act') in the Court of respondent No.3 i.e. the Collector, wherein it was averred that the petitioner was in unauthorized possession in Khasra No.4724. He submits that the petitioner duly appeared before the Court and produced his record of Ration Card and that of Electric Connection. He submits that the petitioner had duly proved that he was not in unauthorized possession and Indra Colony was a regularized colony. He submits that the land was ancestral of the petitioner where respondent No.4-Municipal Council had no concern. He submits that Municipal Council failed to submit any document regarding its ownership. He submits that however the learned Court failed to appreciate the same and thus, passed the impugned order on 25.07.2012 in violation of the evidence on record and the law settled wherein the petitioner was directed to be evicted. He submits that being aggrieved the petitioner filed an appeal before respondent No.2. However, the Appellate Court without appreciating the evidence on record and the law settled, illegally dismissed the same by passing impugned order dated 11.10.2019, which

is unsustainable in the eyes of law. He submits that the impugned orders passed being cryptic, illegal and arbitrary deserve to be set aside.

Per contra, learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner was in unauthorized possession over the land which belongs to respondent No.4-Municipal Council. He submits that from the evidence produced before the Court, the petitioner failed to prove his possession as authorized and thus, he was rightly evicted from the same. He has submitted that the Appellate Authority also found no merit in the appeal filed by the petitioner and thus, the same was rightly rejected. He has submitted that the impugned orders passed by the *quasi judicial authorities* suffer from no infirmity and illegality and thus, the petition being devoid of any merit deserves to be dismissed.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petition was filed by respondent No.4-Municipal Council under Sections 4, 5 & 7 of the Act. Notices were issued by the Collector and both the parties were provided due opportunity for leading their evidence. The arguments of learned counsel for both the sides were heard and the evidence led by both the sides were duly appreciated. The learned Collector, on hearing both the sides and perusing the record, found that the petitioner did not produce any authentic document regarding his ownership. Besides this, no permission whatsoever was taken from the Municipal Council for construction. Thus, it was duly established that the petitioner had illegally encroached

upon the land which belongs to the Municipal Council. The petitioner filed an appeal under Section 9 of the Act before the Commissioner Gurugram. Notices were issued by the Appellate Authority to the respondent-Municipal Council. On perusal of the record, it was found that from the Jamabandi for the year 1989, land in question comprised in Khasra No.4724 (29-2) gair mumkin pahari was in the ownership of the Municipal Council, Narnaul. As per the Gazette notification dated 17.05.1950, the Municipal Council is the owner of all Government land which falls in the area of Municipal Council/Municipal Committee. The petitioner was served with the notice under Section 181 of the Haryana Municipal Act, 1973 but the petitioner did not remove the illegal encroachment. The petitioner had failed to adduce any evidence to prove that he sought approval for any building plan for construction of the house. He further failed to adduce any evidence on record regarding his ownership of the land in question. Thus, finding no merit in the contention raised by learned counsel for the petitioner, both the Courts had rightly evicted the petitioner from the land.

In the considered opinion of this Court, there is no perversity in the concurrent findings given by both the authorities below. Thus, the petition being devoid of any merit is hereby dismissed.

19.12.2023

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(RAJESH BHARDWAJ)
JUDGE

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