

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

CWP-6208-2024

Date of Decision: 18.03.2024

Gurmail Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R. Kartikeya, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of the impugned orders dated 29.01.2024 (Annexure P-4) and 31.10.2023 (Annexure P-3), whereby the petitioner has been ordered to be evicted on the basis of proceedings which are unsustainable in the eyes of law and unenforceable and further issuance of direction to respondent No.5 to consider and decide the representation (Annexure P-5) preferred under the Punjab (Welfare and Settlement of Landless, Marginal and Small Occupant Farmers) Allotment of State Government Land Act 2020 by the petitioner.

2. It has been submitted by learned counsel for the petitioner that on 16.02.1952, a temporary cultivation lease was executed between the father of the petitioner and the Government of Punjab and since then, they are in possession of the land. It is submitted that on 14.06.2004, an order was passed under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short, 'the Act') for eviction of the petitioner from the land but all the legal heirs of father of the petitioner were not impleaded. He further submits that this order was never acted upon. It is submitted that the petitioner was not aware about the proceedings initiated by respondent-

State with respect to his eviction order. It is submitted that the Collector has illegally passed the impugned order dated 31.10.2023 for vacation of the land. He submits that aggrieved by the same, the petitioner filed an appeal before learned Deputy Commissioner, Rupnagar, but learned Deputy Commissioner has also fallen in error in not appreciating the evidence on record and thus, has rejected the appeal by passing a cryptic and non-speaking order dated 29.01.2024. It is further submitted that the notice as per Section 4 of the Act was required to be served upon the petitioner, which has not been served and the provisions of Section 5 of the Act are also not complied with. It has been submitted that in view of the statutory provisions of the Act, opportunity of hearing which was required to be given to the petitioner, has not been provided before passing the impugned order. He has submitted that the order was executed against the persons who were not party to the decree as they were not impleaded in the said litigation. It is submitted that father of the petitioner was admittedly in possession of the land in question and no proceedings were initiated to seek the recovery of the land from the petitioner since the year 2004. He submits that the impugned orders being totally in violation of the Act, deserves to be set aside.

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that Sub Divisional Officer, Head Works Sub Division Rupnagar respondent No.4 filed an application against the petitioner and others, which was decided on 14.06.2004. As is evident from the order, the petitioner was directed to be dispossessed from the land within 30 days. Thereafter, proceedings under the Act were again initiated

by the respondent-State against the petitioner and others by filing petition before the Collector-cum-Executive Engineer Canal and Ground Water Division, Rupnagar. Notices were duly issued by the Collector in the petition, which were published in the newspaper as well on 26.09.2023 and the petitioner and others were asked to appear in the Court. As they did not appear, they were granted last opportunity to come present and the case was fixed for hearing on 31.10.2023. However, despite that the petitioner and others did not appear and thus, the Collector passed the impugned eviction order dated 31.10.2023 on the basis of the record produced before it. Thus, it is evident that despite having been granted various opportunities, the petitioner and others did not appear before the Collector and hence, eviction order dated 31.10.2023 was passed by the Collector in accordance with law. Aggrieved by the same, the petitioner filed an appeal before the Deputy Commissioner. Counsel for the parties were heard again and the record was re-appreciated. As is already evident that the respondent-State earlier filed a petition for eviction of the petitioner, which was decided on 14.06.2004. It is also transpired from the record that the petitioner filed a suit in Civil Court bearing CS No.22 of 2022 titled as Gurnam Singh (performa respondent in appeal) vs. Punjab Government, in which application filed for staying the operation of order dated 14.06.2004 was rejected by the Civil Court on 31.10.2023 and the appeal of which was separately filed by the petitioner in CMA No.102 of 2023, which is pending adjudication. The petitioner has failed to prove any infirmity in the order assailed in the appeal and thus, learned Deputy Commissioner has affirmed the order passed by the Collector. Thus, there are concurrent findings against the petitioner by both the authorities below.

5. Thus, in the considered opinion of this Court, there is no infirmity in the orders passed by the authorities below. Hence, the present petition being devoid of any merit is hereby dismissed.

18.03.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No