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

CWP-5176-2024

Date of decision : 08.05.2024

Gopal Singh and another

....Petitioners

versus

**Deputy Commissioner-cum-Commissioner, Sri Muktsar Sahib and
others** **.... Respond**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rohit Sapehiya, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 15.06.2021 (Annexure P-8) passed by respondent No.1 and order dated 24.09.2019 (Annexure P-7) passed by respondent No.2 vide which eviction order has illegally been passed under Section 5 of the Punjab Public Premises Land (Eviction and Rent Recovery) Act, 1973 which is not sustainable and liable to be set aside and the application filed by the respondent is liable to be rejected. Further prayer has been made that the petition be allowed and the impugned orders (Annexures P-7 and P-8) may be set aside and the case be remanded for deciding the matter afresh keeping in view the circular/notification issued by the State Government dated 17.04.2001 (Annexure P-3) and 14.08.2008(Annexure P-4) as well as Notification dated 26.03.2021 (Annexure P-9) which has not been considered despite the same being produced on record before the Court below, thus the matter be adjudicated afresh in accordance with law.

It has been submitted by counsel for the petitioners that the

petitioners belong to Scheduled Caste community and they are poor and

landless persons. They were allotted 5 marla plot by the Gram Panchayat Village Gidderbaha measuring 25x25 karam for the purpose of construction of the houses about 50 years ago. Accordingly, on the allotment of the plots, the petitioners constructed their houses and were residing there with their families since then. He submits that the petitioners have been issued ration card and voter card and as such, the Panchayat has no objection of their residing in the Village. He further submits that the Government of Punjab issued the Circular dated 17.04.2001 vide which the scheme was framed for construction of house by the poor persons who belongs to the Scheduled Caste community keeping in view the provision of Section 13-A of Punjab Village Common Land (Regulation) Rules, 1964. He submits that the Government of Punjab has also issued circular dated 14.08.2008 wherein the decision has been taken that the persons who belong to Scheduled Caste had constructed their house on the shamlat land prior to 14.08.2008 and they may be given the right of ownership and thus, the petitioners are covered by the scheme as they have constructed their house much prior to 2008. He submits that the petitioners approached the State Government with representation dated 03.06.2016 for considering their case in the light of instructions issued by the State Government and the policy framed therein as the petitioners belong to poor Scheduled Caste family. He submits that instead of considering their representation, proceedings under Section 5 of the Punjab Public Premises Land (Eviction and Rent Recovery) Act, 1973 were instituted for eviction of the petitioners. He submits that the petitioners duly contested the eviction petition however, learned Collector without considering the facts and circumstances of the case that the petitioners have constructed their house prior to 2008 under the scheme framed by the State, passed the impugned eviction order dated 24.09.2019, which is unsustainable in the eyes of law. He submits that aggrieved by the same, petitioners have

challenged the order by way of filing the appeal before the learned Appellate Authority. However, the Appellate Authority also failed to appreciate the same and thus, dismissed the appeal vide order dated 15.06.2021. It is submitted that the impugned order passed is unsustainable in the eyes of law as the same is beyond the evidence on record.

Heard. After hearing counsel for the petitioners and perusing the record, it is apparent that the petitioners are in possession of the property in dispute from last about 15 years. The land belongs to the Water Supply and Sanitation Department. The petitioners as evident from the record could not produce any evidence or documents regarding their allotment by the respondent-State. However, during the eviction proceedings initiated, respondent No.3 produced the evidence in support of their ownership and the Mutation No.4809 was also found to have been entered in the name of the Water Supply and Sanitation Department. Despite number of opportunities, the petitioners did not lead any evidence in respect of their contentions. Thus, it has been concluded by both the Courts below that they were in unauthorized possession of the property in dispute which belongs to respondent No.3. Needless to say that there are concurrent findings of both the Courts below and thus, this Court does not find any infirmity in the impugned orders. Regarding the submissions made by counsel for the petitioners that the petitioners are eligible under the scheme issued by the State for the allotment is a separate cause of action which the petitioners can pursue in accordance with law. Hence, the present petition being devoid of any merits is hereby dismissed.

08.05.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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