

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25110-2024 (O/M)
Date of decision : 30.09.2024

Dharam Pal Petitioner (s)

Versus

State of Punjab and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Arshit Goel, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Dharam Pal) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 26.12.2019 (Annexure P-3), passed by learned Sub Divisional Magistrate-cum-Collector, Jalandhar-I, whereby an application filed by Municipal Corporation, Jalandhar (respondent No. 4) against the petitioner, under Sections 4, 5 and 7 of Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (in short '1973 Act') was allowed.

1.1 A further prayer has been made for setting aside the order dated 16.02.2021 (Annexure P-6), passed by learned Deputy Commissioner, Jalandhar, whereby an appeal filed by the petitioner against the order dated 26.12.2019 (Annexure P-3) was dismissed.

2. Briefly, respondent No. 4-Municipal Corporation filed an application under Sections 4, 5 and 7 of 1973 Act, seeking ejectment of the petitioner from the shop measuring 186 sq. ft., situated at Burlton Park, Jalandhar and for recovery of Rs. 10,31,808/- being arrears of damages for use and occupation charges of the aforesaid premises upto 31.03.2015 alongwith future damages w.e.f. 01.04.2015 till the date of actual eviction of the petitioner.

2.1 The petitioner appeared in the aforesaid eviction proceedings and contested the same inter alia on the plea that he had already vacated the shop to the Municipal Corporation in the year 1989 and that the shop was in possession of Ramesh Chander son of Bhagwan Dass and Pawan Kumar son of Diwan Chand. Petitioner also filed an application before learned Collector seeking impleadment of the above referred Ramesh Chander and Pawan Kumar. It transpires that learned Collector, vide its order dated 26.12.2019 (Annexure P-3), allowed the eviction petition, filed by the Municipal Corporation and directed the petitioner to vacate the premises. The Municipal Corporation was further granted liberty to initiate proceedings of rent recovery under Section 14 of 1973 Act.

2.3 Feeling aggrieved against aforesaid order dated 26.12.2019 (Annexure P-3), an appeal was preferred by the petitioner before Deputy Commissioner-cum-Collector, Jalandhar (exercising the powers of Commissioner under 1973 Act), however, the same was dismissed, vide order dated 16.02.2021 (Annexure P-6).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Apparently, the impugned order (Annexure P-6) was passed by the learned Deputy Commissioner, Jalandhar on 16.02.2021 and the instant writ petition has been filed on 24.09.2024, which has come up for hearing today i.e. 30.09.2024. Evidently, the instant writ petition has been filed beyond a period of three years from the date of passing of the order dated 16.02.2021 (Annexure P-6).

5. During the course of the hearing, a pointed query was raised to the learned counsel appearing for the petitioner as regards the reason for the delay in filing the instant writ petition, however, no explanation is forthcoming and neither any reasoning has been given in the entire body of the writ petition. The petitioner did not invoke any legal remedy for three years after the cause of action arose upon dismissal of his appeal, vide order dated 16.02.2021 (Annexure P-6). The inaction on the part of the petitioner for more than three years has to be addressed first before his claim can be considered.

6. A Division Bench of this Court in ***Krishan Singh Versus State of Punjab, 2010 (4) SCT 583*** held that even for filing a suit, the period of limitation is three years and the same period has been read into as maximum period for filing of the writ petition.

6.1 In case of ***Delhi Administration v. Kaushilya Thakur (2012) 5 SCC 412 : (AIR 2012 Supreme Court 2515)***, their Lordships of Supreme Court has held that writ petition filed after four years of rejection of application for allotment of a plot cannot be entertained and observed as under :-

"10. We have heard Shri H. P. Raval, learned Additional Solicitor General and Shri Rishikesh, learned counsel for

Respondent 1 and perused the record. In our view, the impugned order as also the one passed by the learned single Judge are liable to be set aside because while granting relief to the husband of respondent No. 1, the Teamed single Judge overlooked the fact that the writ petition had been filed after almost 4 years of the rejection of an application for allotment of 1000 sq. yd. plot made by Ranjodh Kumar Thakur. The fact that the writ petitioner made further representations could not be made a ground for ignoring the delay of more than 3 years, more so because in the subsequent communication that authorities concerned had merely indicated that the decision contained in the first letter would stand.

11. It is trite law to say that in exercise of the power under Article [226](#) of the Constitution, the High Court cannot entertain belated claims unless the petitioner offers tangible explanation (State of M.P. v. Bhailal Bhai)" (AIR 1964 Supreme Court 1006).

6.2 In case of **Chennai Metropolitan Water Supply and Sewerage Board v. T. T. Murali Babu, 2014 (4) SCC 108**, the Hon'ble Supreme Court has clearly held that delay may have impact on others ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under :-

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ Court is required to weigh the explanation offered and the acceptability of the same. The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise

whether the list at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has fore gotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years delay in approaching the court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A Court is not expected to give indulgence to such indolent persons - who compete with Kumbhakama or for that matter Rip Van Winkle. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ Court should have thrown the petition overboard at the very threshold."

7. Bearing in mind, the principles of law laid down by their Lordships of the Supreme Court in above-stated decisions **Delhi**

Administration (AIR 2012 Supreme Court 2515) (supra), Chennai Metropolitan Water Supply and Sewerage Board (AIR 2014 Supreme Court 114) (supra), if the facts of the case are examined, it would appear that the appeal filed by the petitioner against an eviction order dated 26.12.2019 (Annexure P-3) was dismissed by the appellate authority on 16.02.2021 (Annexure P-6), whereas the instant writ petition has been filed on 24.09.2024 and in the writ petition, the petitioner has not rendered any explanation for the delay in filing the writ petition, which is sufficient to deny the relief claimed in the writ petition.

8. In view of the above discussion, I do not find any merit in the instant civil writ petition, resultantly, the same is dismissed.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

30.09.2024
sjks

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