

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 04.03.2025

1. CWP-17154-2021 (O/M) 2025:PHHC:030782

Malkeet Singh Petitioner(s)

Versus

Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt.
and others Respondent(s)

2. CWP-21568-2021 (O/M) 2025:PHHC:030786

Udhey Raj alias Billa Petitioner(s)

Versus

Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt.
and others Respondent(s)

3. CWP-22310-2021 (O/M) 2025:PHHC:030788

Hamid Petitioner(s)

Versus

Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt.
and others Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

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HARSH BUNGER, J. (ORAL)

1. This common order shall dispose of aforementioned three writ petitions, as the common question of law and facts are involved therein. For brevity, facts have been taken from CWP-17154-2021.

2. Petitioner (Malkeet Singh) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a

writ in the nature of certiorari for setting aside the order dated 30.04.2019 (Annexure P-4), passed by respondent No. 2 (Estate Officer, Jalandhar Circle, Jalandhar Cantt.), whereby an order for demolition and removal of unauthorized construction has been passed against the petitioner.

2.1 A further prayer has been made for setting aside the order dated 25.02.2020 (Annexure P-6), passed by learned Additional District Judge, Ferozepur, exercising the power of appellate authority under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short '1971 Act'), whereby an appeal filed by the petitioner against order dated 30.04.2019 (Annexure P-4), passed by respondent No. 2, was dismissed.

3. According to the petitioner, one Harnam Singh was recorded as Holder of Occupancy Rights in respect of Bungalow No. 86, situated at Ferozepur Cantt.. The said property has been stated to be occupied on Old Grant Terms, which were governed under the Governor General Order No. 179 of 12.09.1836.

3.1 It appears that a notice under Section 5-B of 1971 Act was issued to the petitioner on the ground that the petitioner had raised unauthorized construction of a shop measuring 12' x 14½. The petitioner is stated to have submitted his reply to the aforesaid notice by taking a stand that the petitioner had taken aforesaid shop on rent from Harnam Singh and that he was regularly paying the taxes to the Cantonment Board and that the electricity meter was installed therein.

3.2 Respondent No. 2 (Estate Officer, Jalandhar Circle, Jalandhar Cantt.), vide order dated 30.04.2019 (Annexure P-4), ordered the petitioner to remove the unauthorized construction.

3.3 Feeling aggrieved against aforesaid order dated 30.04.2019 (Annexure P-4), the petitioner preferred an appeal before the learned District Judge, Ferozepur, which came to be entrusted to learned Additional District Judge, Ferozepur, who vide order dated 25.02.2020 (Annexure P-6), dismissed the appeal. Hence, the present writ petition.

4. At the very outset, learned counsel for petitioner has fairly submitted that similar writ petitions filed by the other occupants of the aforesaid property forming part of Bungalow No. 86 have already been dismissed by a coordinate bench of this Court, where one of the matters is CWP-9909-2022, decided on 13.02.2024, wherein similar orders of removal of unauthorized constructions, as in the present case; have been upheld. A copy of the order dated 13.02.2024, passed in CWP-9909-2022 has been handed over in Court today, which is taken on record subject to all just exceptions. The relevant extracts of aforesaid order read as under :-

“ On hearing learned counsel for the parties and perusing the record, it is deciphered that the land underneath/ appurtenant to Bungalow No. 86, comprising GLR Survey No. 202, admeasuring 3.85 acres belongs to Govt. of India, Ministry of Defence, and falls under the management of the Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. The said premises is held on “Old Grant” governed by GGO No. 179 of 12.09.1836. As per terms and conditions laid down in the said GGO No.179 of 12.09.1836, no sale/purchase can take place without

prior permission from the competent authority and no erection/re-erection of the building could be made by any person and no change of purpose can take place without having obtained prior permission for the same from the competent authority. On finding the unauthorized construction having been made by the petitioner, a show cause notice dated 26.10.2006 was issued to the petitioner under sub-section (1) of Section 5-B of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the Act') and the proceedings were initiated before the Estate Officer, Jalandhar Circle, Jalandhar Cantt. The petitioner filed the reply to the same. On hearing both the sides, the Estate Officer passed the order dated 30.04.2019 for demolition and removal of unauthorized construction. The petitioner assailed the same by way of filing an appeal before the learned Additional District Judge, Ferozepur. As evident from the record, the Additional District Judge vide his order dated 04.08.2018 had remanded the case to the respondent authorities for passing a fresh order after affording reasonable opportunity of being heard to the petitioner. Thus, on re-hearing the petitioner, a fresh impugned order dated 30.04.2019 was passed. The learned Appellate Court heard both the sides and perused the complete evidence on record. The unauthorized construction i.e. a shop measuring 12'00"x14'6" was found to have been made and despite having been granted numerous opportunities to the petitioner for producing the sanctioned plan, same was not produced. It is also apparent from the record that the petitioner had failed to produce any document in support of any claim to the right of occupancy on the Old Grant Terms of Bungalow No. 86. Thus, the plea taken by the petitioner was appreciated by the learned Civil Court after having been provided due opportunity to the petitioner.

Thus, this Court does not find any illegality in the proceedings carried out by the respondents authorities. The learned Appellate Court had appreciated the grievances raised by the petitioner in accordance with law.

Hence, this Court does not find any infirmity in the impugned orders passed. Resultantly, the petition being devoid of any merit is hereby dismissed.”

4.1 A perusal of the above extracted findings would clearly indicate that the constructions were made by the persons occupying the property forming part of Bungalow No. 86 without there being any sanctioned plan nor any document in support of their claim as regards the rights of occupancy on old grant terms of Bungalow No. 86 has been produced.

5. In the instant case as well, learned counsel for petitioner has not shown any sanctioned plan nor any material/document has been produced in support of their claim as regards the rights of occupancy on old grant terms.

6. In this view of the matter, there is no occasion to take a different view, as already taken by a coordinate bench of this Court, vide order dated 13.02.2024, passed in CWP-9909-2022.

7. Resultantly, the present writ petition fails and the same is accordingly dismissed.

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

9. Photocopy of this order be placed on connected case files.

(HARSH BUNGER)
JUDGE

04.03.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No