

140

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

**CWP-13873-2025
Date of Decision: 15.05.2025**

Jagmal Singh

..... Petitioner

Versus

Municipal Corporation, Karnal Through Its Executive Officer and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ravinder Bangar, Advocate
for the petitioner.

Ms.Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, for issuance of a writ in the nature of Certiorari for setting aside order dated 24.07.2024 (Annexure P-2) passed by the learned Joint Commissioner-cum-Competent Authority, Municipal Corporation, Karnal, whereby the petitioner has been directed to vacate the demised premises under Section 408-A of the Haryana Municipal Corporation Act, 1994 (in short 'the 1994 Act').

1.1 A further prayer has been made for setting aside order dated 27.03.2025 (Annexure P-1) passed by the learned Commissioner (Appellate Authority), Municipal Corporation, Karnal, whereby an appeal filed by the petitioner against order dated 24.07.2024 (Annexure P-2) has been dismissed.

2. Briefly, proceedings under Section 408-A of the 1994 Act were initiated against the petitioner, wherein a Show Cause Notice dated

09.06.2023 (Annexure P-5) was issued to the petitioner, to which, he had filed reply (Annexure P-6).

2.1 The Joint Commissioner-cum-Competent Authority, Municipal Corporation, Karnal, upon consideration of the matter, passed order dated 24.07.2024 (Annexure P-2), thereby directing the petitioner to vacate the demised premises.

2.2 Feeling aggrieved against the aforesaid order dated 24.07.2024 (Annexure P-2), petitioner preferred an appeal before the learned Commissioner (Appellate Authority), Municipal Corporation, Karnal, which came to be dismissed vide order dated 27.03.2025 (Annexure P-1).

3. In the aforementioned circumstances, petitioner has filed the present writ petition before this Court, seeking relief(s) as noticed hereinabove.

4. Heard.

5. A perusal of the paper book would reveal that the land in question formed part of Rectangle No.46, Killa Nos.4(5-19) and 7(8-0); and Rectangle No.46, Killa Nos.10(7-10) and 11(1-2), situate at Village Phoosgarh, Tehsil and District Karnal (as per Jamabandi for the year 2009-10).

5.1 It is borne out from the paper book that initially when the demised premises was outside the Municipal limits, the then Gram Panchayat had filed an eviction petition under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961 (in short 'the 1961 Act'), seeking eviction of Nawal Singh (the great grandfather of petitioner), which was allowed vide order dated 26.07.1974. An appeal filed by Nawal Singh against the said eviction order dated 26.07.1974 was also dismissed by the Appellate Authority vide order dated 16.12.1974. It appears that son of

Nawal Singh, namely Karan Singh, preferred a writ petition (CWP-7471-1992) before this Court, wherein the following order dated 17.08.1992 (Annexure P-8) was passed:-

“Counsel for respondent No.3 states that the respondents shall not seek possession from the petitioner in execution of the impugned order passed on 26.7.1974. They however reserve their right to take proceedings against the petitioner for possession of this land in accordance with law. This writ petition is disposed of in these terms.”

5.2 It transpires that after passing of the aforesaid eviction order dated 26.07.1974, another eviction petition was filed by the Gram Panchayat, Phoosgarh, against Karan Singh, under the Public Premises Act, however, the same was dismissed by the learned Collector, Karnal, vide order dated 12.04.1994.

5.3 Thereafter, upon inclusion of the land in question within the Municipal limits, the Municipal Corporation, Karnal, initiated eviction proceedings against petitioner under Section 408-A of the 1994 Act, wherein the impugned eviction orders have been passed.

6. During the course of hearing, the only argument raised by the learned counsel for the petitioner is that the petitioner cannot be evicted from the land in question as the earlier eviction petition filed by the Gram Panchayat, Phoosgarh, against his predecessor, namely Karan Singh, under the Public Premises Act, had been dismissed vide order dated 12.04.1994, and therefore, the present proceedings are barred by the principle of *res judicata*.

7. I have considered the submissions made by learned counsel for the parties, however, I do not find any merit in the same.

8. It is well settled that proceedings under Section 408-A of the

1994 Act are summary proceedings and the principle of *res judicata* are not attracted to the summary proceedings. In this regard, reference can be made to the judgment rendered by the Hon'ble Supreme Court in "**Inder Singh Vs. Financial Commissioner, Punjab**", 1997 (11) SCC 206, wherein the following observations have been made:-

*"2. The admitted facts are that the appellants/tenants were in possession of the land bearing specified Khasra numbers mentioned in the appellate order (the details of which are not in dispute), admeasuring 190 kanals, 6 marlas in Village Kotrani in Kapurthala District of Punjab. His application made under Section 22 of the Pepsu Tenancy and Agricultural Lands Act, 1955 (for short, 'the Act') was rejected by order dated April 25, 1960 on the ground that they did not have possession for 12 years which was confirmed by all the authorities including the High Court in the Writ Petition on September 7, 1964. Subsequently, they made second application on March 26, 1965 for conferment of ownership rights based on tenancy from the respondents. Similarly, the landlord filed an application for reservation of the land for personal cultivation. The authorities have dismissed the application of the landlord for reservation of the land and by the High Court which order became final. The application of the appellants was allowed on December 15, 1965. On appeal, it was confirmed on June 22, 1966. In revision, the Financial Commissioner by order dated June 15, 1967 confirmed the same. In the writ petition, by the impugned judgment the Division Bench set aside the orders of the authorities on the sole ground that the orders passed on the earlier occasion culminated as *res judicata* and, therefore the second application under Section 22 is not maintainable,*

*3. Shri Ujagar Singh, learned senior counsel for the appellants contended that the view taken by the High Court is not correct in law. Since the proceedings before the authorities is of summary nature, the doctrine of *res judicata* has no application. The Act does not prescribe any principle of *res**

judicata as such. The proceedings before the authorities are of summary nature. It would not be correct to apply the principle of res judicata. We find force in the contention. It is not in dispute that the order passed by the authorities is without any elaborate trial like in a suit but in a summary manner. It is well settled law that the doctrine of res judicata envisaged in Section 11 of G.P.C. has no application to summary proceedings unless the statute expressly applies to such orders. The authorities are not civil Court nor the petition a plaint. No issues are framed nor tried as a civil suit. Under these circumstances, the Division Bench of the High Court was clearly in error to conclude that the earlier proceedings operate as res judicata.”

9. Learned counsel for the petitioner has failed to refute to the aforesaid legal position nor has he been able to show any better claim to the land in question.

10. Considering the totality of facts and circumstances, I find no merit in the instant writ petition and the same is accordingly dismissed.

11. All pending application(s), if any, shall also stand closed.

15.05.2025

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No