

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-423-2017 (O/M)

Date of decision : 24.07.2025

Ram Lubhaya

..... Petitioner

Versus

Estate Officer, Cantonment Board, Jalandhar Cantt.
District Jalandhar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Bhupinder Gupta Advocate for
Mr. G.S. Madaan, Advocate
for the petitioner.

Ms. M.S. Sachdev, Advocate
for respondents.

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HARSH BUNGER, J.

1. Prayer in this writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the order dated 17.08.2015 (Annexure P-5), passed by Estate Officer, Cantonment Board, Jalandhar Cantt., whereby the petitioner has been ordered to be evicted from Shop No. 1, situated at Mohalla No. 5, Jalandhar Cantt.

2. Briefly, a notice dated 18.11.2014 (Annexure P-4) under Sub-section (2) of Section 5-A of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short '1971 Act') was issued to petitioner-Ram Lubhaya; stating therein that the Government land measuring 12'-0" x 5'-6" bearing Survey No. 283/2512, classified as Class B-4 land (hereinafter referred to as 'public premises') had been encroached upon by the petitioner by constructing a shop with rolling shutter on the ground floor; without the permission of the competent authority and also that the building had been

erected in contravention of the provisions of Sub-section (1) of Section 5-A of 1971 Act, accordingly, the petitioner was called upon to remove the said building on the above referred public premises. In the aforesaid notice dated 18.11.2014 (Annexure P-4), the property in question is described as under :-

“NORTH : Cross Road (Sy. No. 283/2511)
EAST : Patel Road (Sy. No. 283/2511)
WEST : Sanjay s/o Subhash Chander
(Sy. No. 283/2512)
SOUTH : Property No. 01.”

2.1 Apparently, in pursuance to aforesaid notice dated 18.11.2014 (Annexure P-4), petitioner appeared before the Estate Officer, Cantonment Board, Jalandhar Cantt. and submitted his objections/reply, which are summarized as under :-

- (a) that the shop in question had been constructed/erected more than 20 years back and at that time, no notice under Section 4 or Section 5-A (1) of 1971 Act was issued ;
- (b) that the petitioner is tenant in a small shop, which he had taken on rent from Smt. Sharda Garg and in support of the same, he had produced rent receipts ; and
- (c) that the notice had been issued by the authorities in connivance with the owner of the shop, who wants to eject the petitioner in one way or the other.

2.2 On behalf of Jalandhar Cantonment Board, the aforesaid objections raised by the petitioner, were controverted by stating as under :-

- (a) that merely non-issuance of a notice under Section 4 or Section 5-A (1) of 1971 Act at the time when the construction was being raised, does not vitiate the proceedings ;
- (b) that the petitioner was called upon to submit documentary evidence to show that the shop in question had been erected more than 20 years ago ; and
- (c) that as per General Land Register (GLR) maintained by Jalandhar Cantonment Board under the Cantonment Land Administration Rules, 1937 (in short '1937 Rules'), the subject land bearing Survey No. 283/2512 is a vacant Class B-4 land, owned by Government of India and placed under the management of Jalandhar Cantonment Board. In support of the said stand taken by Jalandhar Cantonment Board, an extract of GLR Survey No. 283/2512 was placed on record as Ex.P1 alongwith a report of Cantonment Overseer, indicating the detection of encroachment as Ex.P2 and site plan showing encroachment as Ex.P3.

2.3 The Estate Officer, Cantonment Area, Jalandhar Cantt., upon considering the matter, passed an order dated 17.08.2015 (Annexure P-5), whereby he directed the petitioner to remove the shop/immovable structure from the aforesaid 'public premises' within 15 days from the receipt of the order, failing which, same shall be removed by the Estate Officer concerned and in that eventuality, petitioner would be liable to pay Rs. 1,500/- as costs of removal of said shop/immovable structure, to be recovered as arrears of land revenue.

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

4. Learned counsel for petitioner has primarily raised following submissions :-

- (i) that the property in question does not fall within the ambit of 'public premises' ;
- (ii) that no notice under Section 4 or Section 5-A (1) of 1971 Act was issued when the shop was being constructed about 20 years ago ;
- (iii) that the proceedings under 1971 Act were bad on account of non-joinder of necessary party i.e. landlord of the petitioner, namely, Smt. Sharda Garg ; and
- (iv) that no inquiry was conducted as regards true dimensions of the property in question i.e. shop.

5. Per contra, learned counsel appearing for respondents has opposed the submissions raised on behalf of petitioner and prayed for dismissal of this writ petition.

6. Heard.

7 As far as first contention raised on behalf of the petitioner that the property in question does not fall within the ambit of 'public premises', as defined under the 1971 Act; it is observed that concededly, the property in question falls within the cantonment area of Jalandhar Cantonment Board, which is a part of Survey No. 283/2512. The Jalandhar Cantonment Board has placed reliance upon General Land Register (GLR) maintained by it (Jalandhar Cantonment Board) under the 1937 Rules (Cantonment

Land Administration Rules, 1937) to show that the shop had been constructed on the land bearing Survey No. 283/2512, which was vacant Class B-4 land and that the said land is owned by Government of India, however, placed under the management of Jalandhar Cantonment Board.

7.1 Hon'ble The Supreme Court in '***Union of India and others Versus Robert Zomawia Street***', (2014) 6 SCC 707, after placing reliance on the earlier decision of the Supreme Court in '***Union of India Versus Ibrahim Uddin***', (2012) 8 SCC 1484, has held that the entries made in the GLR maintained under the Cantonment Land Administration Rules is conclusive evidence of title. In this connection reference needs to be made to paragraph 10 of the decision in case of ***Robert Zomawia*** (supra); which is as follows:

"10. We have given our thoughtful consideration to the rival submissions and plea of Mr. Parasaran that entries made in the GLR are the conclusive proof of title commend us and the decisions relied on clearly support his contention. In the case of Ibrahim Uddin (supra), relying on the decision of Kamla Verma (supra) and Chief Executive Officer v. Surendra Kumar Vakil, 1999 (2) RCR (Civil) 411 : (1999) 3 SCC 555, this Court has observed that "it is settled legal position that the entries made in the General Land Register maintained under the Cantonment Land Manual Rules are conclusive evident of title". We respectfully concur with this view."

7.2 Accordingly, it can be safely concluded that the land on which shop has been raised and falls within the cantonment area i.e. Survey No. 283/2512, is a 'public premises' within the meaning of Section 2 (g) of 1971 Act.

7.3 As regards second contention raised on behalf of the petitioner that no notice under Section 4 or Section 5-A (1) of 1971 Act was issued

when the shop was being constructed about 20 years back; suffice it to say that there is no such requirement of issuing notice at the time when the illegal construction was being raised and mere non-issuance of such notice, does not vitiate the proceedings. Similar view was taken by a Division Bench of Allahabad High Court in '***Shruti Dhar Tripathi Versus Government of India And Another***' [2015 (57) RCR (Civil) 173], wherein following observation has been made :-

“12. The contention of learned counsel for the petitioner that such unauthorised constructions had not been made since the Estate Officer did not issue any notice at the stage of construction cannot be accepted. Merely because a notice had not been issued at the initial stage cannot be made a ground to contend that unauthorised constructions had not been raised. This apart, the finding of fact that new unauthorised constructions had been raised has not been demonstrated to be perverse.”

8. As regards third contention raised on behalf of petitioner that the eviction proceedings were bad on account of non-joinder of landlord of the shop in question i.e. Smt. Sharda Garg; suffice it to say that the petitioner has not placed on record any document to indicate that Smt. Sharda Garg was ever placed in possession of the area in question by the Jalandhar Cantonment Board or any other authority; competent to do so. That apart, there is no document to indicate that Smt. Sharda Garg had sought permission from the Jalandhar Cantonment Board to raise any construction on the area, which forms a part of land Survey No. 283/2512. In the absence of the aforesaid documents, in my considered view, there was no necessity to implead Smt. Sharda (so-called landlord of the petitioner) as a party to the instant proceedings.

9. The next (fourth) submission raised on behalf of petitioner that no inquiry has been conducted as regards true dimensions of the shop in question, regarding which the removal was sought; it is observed that the Jalandhar Cantonment Board has placed on record report of Cantonment Overseer regarding detection of encroachment as Ex.P2 and also site plan, showing the encroachment as Ex.P3. Neither before the Estate Officer, Jalandhar Cantt. nor before this Court, petitioner has placed on record any material or document to indicate that the report of the Cantonment Overseer (Ex.P2) and/or site plan (Ex.P3) are wrong/incorrect, accordingly, the said plea is liable to be rejected and hence rejected.

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

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

(HARSH BUNGER)
JUDGE

24.07.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No