



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

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**LPA-3368-2024 (O&M)
Date of Decision: 08.01.2025**

Raj Kumar and others

....Appellants

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Deepak Jain, Advocate
for the appellants.

Mr. Ankur Mittal, Additional Advocate General, Haryana
Mr. P.P.Chahar, Sr. Deputy Advocate General, Haryana and
Mr. Saurabh Mago, Deputy Advocate General, Haryana
for respondents No.1 to 3.

Mr. Ankur Mittal, Advocate
Ms. Kushaldeep K. Manchanda, Advocate and
Ms. Saanvi Singla, Advocate
for respondent No.4.

Sureshwar Thakur, J. (Oral)

1. The appellants, who suffered a verdict of eviction from the statutory authorities as constituted under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972, (hereinafter in short to be referred as 'the Act of 1972'), preferred Civil Writ Petition No.11573 of 1993 before this Court. On the said supra writ petition, a decision was made on 31.03.2011 (Annexure P-1). Through the said decision, the orders of eviction as became passed by the authorities constituted under the Act of 1972, became



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affirmed. The operative part of the said annexure becomes extracted hereinafter:

“Therefore, I do not find any valid reason or jurisdiction to interfere in the impugned order passed by the authorities directing the eviction of the petitioners. Though not on record in any manner but the counsel for the respondents during the course of arguments pointed out before me that the Municipal Committee now intends to construct shops at the place, which the petitioners have occupied by constructing khokhas. The intention is to rent out these shops to earn income from the Municipal Committee. The counsel submits that the petitioners would be at liberty to make an application for allotment of these shops once these are ready. I find this proposal and offer to be fair approach in dealing with the cases of the petitioners. While dismissing the writ petitions, I would give liberty to the petitioners to make an application for allotment of shops, if these are constructed at the place from where the petitioners are going to be evicted. It would be fair for the Municipal Committee to consider their claim by giving some preference to these petitions as they certainly have been in place for a reasonable period.

The writ petitions, however, are dismissed.”

2. The said decision led the aggrieved therefrom to institute LPA bearing No.1056 of 2011 before this Court. The said LPA along with the other connected therewith LPAs were decided on 02.11.2012 (Annexure P-2). A perusal of the operative part of the decision recorded on the supra LPAs, operative part whereof becomes extracted hereinafter, discloses that the LPA Bench, thus did not find any error with the findings recorded by the learned Single Bench of this Court (Annexure P-1). Resultantly, though all the LPAs



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supra became dismissed.

“For the reasons recorded hereinabove, there is no error or infirmity in the order passed by the learned Single Judge. The appeals are hereby, dismissed with no order as to costs. However, keeping in view the fact that the appellants are in possession of the premises, in dispute, since 1978 and they are petty shop keepers running their business in kiosks for earning their livelihood, the Municipal Committee, Ellenabad, is directed to take a sympathetic view in the matter and to consider, if an alternative site as a measure of their rehabilitation, can be allotted to them on payment of usual charges.”

3. However, the LPA Bench while bearing in mind the fact that the appellants in the LPA were in possession of the disputed premises since 1978, besides were stated to be petty shopkeepers running the business in kiosks for theirs earning their livelihood, therebys the Municipal Committee, Ellenabad, was directed to take a sympathetic view in the matter and to consider, if an alternative site as a measure of their rehabilitation, can be allotted to them on payment of usual charges.

4. The said decision (Annexure P-2) was passed on 02.11.2012 and though immediately on passing of the said decision, given the same acquiring binding and conclusive effect, as no material becomes placed on record before this Court, suggesting that it became appealed before the Hon’ble Apex Court nor when any material becomes placed on record qua the supra decision recorded in the LPA becoming reversed and set aside, therebys it was required to be put to the promptest execution.

5. Enigmatically since 2012 till now, yet the binding and conclusive



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verdict of eviction as made on the supra LPAs rather remained unexecuted. Consequently the prolonged delay supra in the completest execution being made of the verdict supra, leads this Court to make the derelicting officer/official concerned to be amenable for proper disciplinary proceedings being drawn against him/her/them. The said be promptly drawn and be taken to their logical conclusion.

6. Today, the learned counsel for the appellants has vehemently argued for the passing of a consideration order on the basis of the supra operative part of the order recorded by this Court in LPA supra, whereby, the respondents were directed to take a sympathetic view for allotting alternative sites to the present appellants as a measure of theirs being rehabilitated.

7. However, the said direction is not loaded with any categorical overtones, rather is merely a consideration order upon the State.

8. Therefore, since the date of passing of the said order, upto now, it as stated supra, though it appears that no sympathetic consideration was made *viz-a-viz* the rehabilitation of the present appellants, rather from their unauthorizedly raised kiosks, wherefrom they were running petty business' and which were installed in public areas. However, the non takings of consideration *viz-a-viz* the said sympathetic directions, also does not result in any demonstrable contumacy, becoming made by the respondents towards the need of the present appellants for becoming rehabilitated at alternative sites, as the said sympathetic consideration *viz-a-viz* the rehabilitation of the present petitioners, but was required to become anvil upon certain rules, regulations or policy decisions becoming made by the respondents. Since



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however, on the date of passing of the said decision neither any rules nor any regulations besides no policy was in existence therebys, the said consideration order was not required to *stricto sensu* complied with by the respondents.

9. Though as above stated, this Court for the prolonged non execution of the binding and conclusive verdict made by this Court in the LPA supra, has made a direction for the errant official/officer concerned being subjected to disciplinary proceedings, yet today also the learned counsel for the appellants, rather has vehemently argued that in terms of Annexure P-3, the unauthorizedly raised kiosks be directed to become regularized. The relevant contents of the said policy, which occur in paragraph 2 thereof, paragraph whereof becomes extracted hereinafter, pointedly echo, that the said policy is made applicable on lands, which are leased out on Tehbajari/shops/houses for which the corresponding rent/lease money/license fee/Tehbajari fee, thus is due/receivable to/by Municipal Bodies, as on 31.12.2020, and which are in the possession of persons/entities, other than the Municipal Bodies or, as the case may be, its predecessor bodies for a period of 20 years and above.

“2. Categories of properties/persons to whom this Policy apply:-

(1) Save as otherwise provided by or under this policy or, as the case may be, directed by the Government from time to time, this policy shall apply to the following properties:-

(a) On the land leased out on Tehbajari/shops/houses for which the corresponding rent/lease money/ license fee/Tehbajari fee is due/receivable to the Municipal Bodies as on 31.12.2020 and which are in



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the possession of persons/entities other than the Municipal Bodies or, as the case may be, its predecessor bodies for a period of 20 years and above.

Note: It is possible that even after granting such rights, the properties might have been transferred to the Municipal Bodies (either its ownership or management) from other bodies (such as Panchayat, Improvement Trust, Mandi Township etc). In such cases, for the purposes of working out 'duration of possession', the period for which it remained in the ownership/management of such predecessor bodies will also be included while working out eligibility.

(b) Any other class or category of persons/properties on which the Government may, by order, specifically direct this Policy to be made applicable, either wholly or in parts."

10. Initially, as above stated, the reasons for declining relief on the basis of the said policy, though initially becomes comprised in the factum that it came into being in the year 2021, whereas, the binding and effective order of eviction becomes passed earlier thereto rather in the year 2012, at stage whereof, the same was not in force, whereby it was unenforceable at the instance of the present appellants. Moreover, with the said verdict of eviction, remaining unexecuted, rather for a prolonged duration of time, thus has led this Court to make the supra directions, upon, the respondent to conduct disciplinary action against the errant officials.

11. Be that as it may even the reliance as made by the learned counsel today upon said supra policy provisions, is also but a misplaced



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reliance thereon. The reason(s) for stating so is embodied in the factum, that the present appellants were not allotted relevant sites, rather on Tehbajari nor there were any shops and houses located thereons, nor there were any charging of rent/lease money/license fee/Tehbajari fee, rather by the respondents from the present appellants. Contrarily, the present appellants were unauthorized occupants and were declared so, on the makings of binding and conclusive verdict(s) of eviction. Therefore, the binding and conclusive verdicts of eviction, but were required to be fully actioned, rather than the benefit of the supra policy provisions becoming endowed to the present appellants.

12. The respondent authorities are also required to ensure that they do not go behind the binding and conclusive decrees of eviction, unless they stood reversed, whereas, when they for reasons supra, rather remained unreserved, therebys, they were required to be put to promptest execution. Resultantly, the counsel for the appellants cannot be permitted to, on the basis of Annexure P-3 drawn on 01.06.2021, make a flimsy argument, which *per se* appears to render the decree supra to be of no value, as, therebys the executing Courts would be impermissibly going behind the decrees of eviction pronounced by the competent Courts of law, which are but required to be *stricto sensu* enforced.

13. After finding no merits in the instant writ petition, the same is dismissed.

14. The responsibility for the delay in the handing over of possession by the present appellants to the authorities concerned, is deprecated and leads this Court to impose upon each of the appellants, costs in a sum of Rs.10,000/-



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each, which shall be forthwith deposited by them before the competent authority.

15. In coming to the said conclusion, the Court is fortified from paragraphs 13 and 14 embodied in the judgment rendered by the Hon'ble Apex Court in case titled "**Dnyandeo Sabaji Naik and another V/s Pradnya Prakash Khadekar**" and others, reported in (2017) 5 SCC 496, paragraph whereof becomes extracted hereinunder:

"13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.

14. Courts across the legal system—this Court not being an exception—are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing



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worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalises such behaviour. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be



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shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.”

16. In aftermath finding no merit in the instant LPA, the same is dismissed, and, the impugned verdict is affirmed and upheld.

(SURESHWAR THAKUR)
JUDGE

January 08, 2025
Varinder

(VIKAS SURI)
JUDGE

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