
(1999) 03 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 6239 of 1994

Harjeet Singh

APPELLANT

Vs

District Judge and
Another

RESPONDENT

Date of Decision: March 11, 1999

Acts Referred:

- Capital of Punjab (Development and Regulation) Act, 1952 - Section 10
- Public Premises (Eviction of Unauthorised Occupants) Act, 1971 - Section 5(1)

Citation: (1999) 122 PLR 285 : (1999) 2 RCR(Civil) 697

Hon'ble Judges: G.S. Singhvi, J; Amar Dutt, J

Bench: Division Bench

Advocate: None, for the Appellant; Sanjay Kaushal, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

G.S. Singhvi, J.

This is a petition to quash the order dated 8.6.1989 passed by the Assistant Estate Officer, exercising the powers of the Estate Officer, Chandigarh, the order dated 19.10.1989 passed by the Land Acquisition Officer, exercising the powers of the Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "the 1971 Act") and to set aside the judgment dated 6.4.1994 of the District Judge, Chandigarh dismissing the appeal filed by the petitioner u/s 9 of the 1971 Act.

2. A perusal of the record shows that booth No. 99, Sector 34, Chandigarh was allotted to the petitioner in the year 1980 on Hire Purchase-cum-Lease hold basis Scheme called "Allotment/Transfer of Booths on Lease-Hold Basis Scheme, 1977". In the allotment letter, it was stipulated that the lessee shall not part with the possession of booth by

transfer or otherwise for a period of 15 years. It, however, appears that the petitioner transferred the booth to one Chander Bhan Aggarwal son of Chandgi Ram, Resident of H. No. 1905, Sector 34-C, Chandigarh in the garb of executing general power of attorney in the latter's favour. Therefore, proceedings for cancellation of the lease were initiated by the Assistant Estate Officer. The petitioner did not respond to the show cause notice dated 31.3.1989. He also failed to avail the opportunity to personal hearing.

Consequently, by an order dated 8.6.1989, the Assistant Estate Officer cancelled the lease and forfeited the security amount of Rs. 990/-. This order was challenged by the petitioner by way of appeal filed u/s 10 of the Capital of Punjab (Development and Regulation) Act, 1952. During the pendency of that appeal, proceedings under the 1971 Act were initiated by the Land Acquisition Officer, exercising the powers of the Estate Officer. He passed order dated 19.10.1989 directing the petitioner's ejectment. The learned District Judge, Chandigarh dismissed the appeal filed by the petitioner u/s 9 of the 1971 Act.

3. The principal ground on which the petitioner has challenged the order passed u/s 5(1) of the 1971 Act is that during the pendency of appeal filed by him against the order of cancellation of lease, proceedings under the 1971 Act could not have been initiated.

4. At the hearing of the case, Shri Sanjay Kaushal produced photostat copies of the orders dated 21.11.1997 and 8.3.1999, a perusal of which shows that the appeal filed by the petitioner was dismissed by the Chief Administrator on 21.11.1997 and the application for re-calling that order has been dismissed on 8.3.1999.

5. The petitioner has not challenged the orders dated 21.11.1997 and 8.3.1999 passed by the Chief Administrator during the pendency of the writ petition. Therefore, no substantive relief can be given to him in this petition.

6. In view of the above, we dismiss the writ petition with liberty to the petitioner to file fresh petition to challenge the orders impugned in the writ petition as well as the orders passed during the pendency of the writ petition.