

(2013) 10 P&H CK 0233

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP. No. 21724 of 2013

Bharat Kumar

APPELLANT

Vs

Union Territory of Chandigarh
and Others

RESPONDENT

Date of Decision: Oct. 8, 2013

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Advocate: H.P.S. Rahi, for the Appellant;

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The petitioner has challenged order dated 13.06.2012 passed by the Land Acquisition Officer exercising powers of the Estate Officer, Union Territory, Chandigarh and order dated 10.07.2013 passed by the Estate Officer under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the "Act"). It is alleged by the petitioner that he is partner of respondent no. 4-Lalita, original allottee of booth No. 174, Site and Services Complex Karsan, Phase-II, Ramdarbar, Chandigarh, who has been ordered to be evicted by respondent no. 3 on 13.06.2012 and notice has been given by respondent no. 2 to vacate the premises in question within 15 days. It is submitted that the petitioner, being in possession as a partner of the original allottee, was also required to be served with a show cause notice before the impugned action was taken.

2. I have heard learned counsel for the petitioner and perused the record.

3. The proceedings against respondent nos. 4 and 5 were initiated as it has been found that they have violated the provisions of the Licensing of Tenements and Sites and Services Chandigarh Scheme, 1979 (hereinafter referred to as the "Scheme"). A vigilance inquiry was instituted by the Vigilance Department, Union Territory, Chandigarh, on the complaint of Sat Pal Goel and in terms of the inquiry report

dated 10.07.2013 and action was proposed to cancel the allotment of booth No. 174 along with others, as the original allottee had sold out/part with the possession of her allotted booth to respondent no. 5-Ravi Kumar Khanna. Thereafter, show cause notice was issued to respondent no. 4 as to why the license in respect of above booth be not cancelled for violating the conditions of the allotment agreed upon by her at the time of allotment. Respondent no. 5, occupier/purchaser of the above site, filed a civil suit against respondent no. 4 and the Land Acquisition Officer in which no stay was granted by the Civil Court. Respondent no. 4-allottee/licensee was afforded many opportunities but she did not appear even once, though respondent no. 5-occupier/purchaser appeared on four times, which is found to be a factor to presume that the licensee has sold out the site and violated the terms and conditions of the allotment/Scheme. In view thereof, respondent no. 3 cancelled the allotment vide his order dated 13.06.2012 and thereafter, respondent no. 2 issued a notice dated 10.07.2013 to respondent nos. 4 and 5 to vacate the said premises. There is no averment in the writ petition that the impugned orders dated 13.06.2012 and 10.07.2013 have been challenged by respondent nos. 4 and 5. No partnership deed has been placed on record in order to prove that the petitioner is a partner with respondent no. 4. In the absence of any material on record, the averments made in the writ petition cannot be believed that the petitioner was a partner of the original allottee/respondent no. 4 and was required to be served with show cause notice, rather his case is that he is the tenant of respondent no. 5, meaning thereby he is allegedly in possession of the site through respondent no. 5, who himself could not have been delivered possession by respondent no. 4 in view of Clause 5 of the Scheme. In view of the aforesaid discussion, I do not find any error in the impugned orders and thus, the writ petition is hereby dismissed being denuded of any merit.