

(2010) 12 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 8448 of 2010 (O and M)

Ashok Kumar and Others

APPELLANT

Vs

Estate Officer and Another

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 5A, 9

Citation : (2010) 12 P&H CK 0041

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

L.N. Mittal, J.

CM No. 32782.CII of 2010

1. Allowed as prayed for.

CM No. 32783. CII of 2010

2. Application is allowed and Annexures P/1 to P/3 are taken on record.

CR No. 8448 of 2010

3. Respondent No. 1 - Estate Officer vide order dated 22.11.2010, Annexure P/1 ordered demolition and removal of unauthorized construction raised by the Petitioners by issuing notice u/s 5-A of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short, the Act) and then vide order dated 6.12.2010, Annexure P/2 after considering the cause shown ordered Petitioner No. 1 to pay the cost of removal of the said building. Petitioners have alleged that they have filed appeal u/s 9 of the Act, Annexure P/3 against orders Annexures P/1 and P/2 and in the said appeal, learned Additional District Judge, Ferozepur vide order dated 18.12.2010 has ordered issuance of notice of the appeal to Respondents for 24.12.2010 but no interim order staying demolition of

disputed building of the Petitioner has been passed by the appellate court inspite of separate application moved for interim stay along with the appeal. Accordingly, the Petitioners have approached this Court by way of instant revision petition under Article 227 of the Constitution of India seeking direction to Respondents not to demolish the disputed building in pursuance of orders Annexures P/1 and P/2.

4. I have heard learned Counsel for the Petitioners and perused the case file.

5. In the instant revision petition, Petitioners have challenged orders Annexure P/1 and P/2 but the said challenge is misconceived because the said orders have already been challenged by the Petitioners in appeal which is pending adjudication before the lower appellate court. Consequently, revision petition qua same is dismissed without prejudice to merits of the pending appeal.

6. Learned Counsel for the Petitioners contended that the Petitioners have pasted a notice to carry out demolition on 24.10.2010 at 8.00 AM. Accordingly, learned Counsel for the Petitioners prays that immediate demolition of the disputed building be stayed.

7. I have carefully considered the aforesaid contention. The instant revision petition to seek the aforesaid interim relief also appears to be misconceived because the Petitioners should have approached the appellate court for the same. However, since the Petitioners are apprehending imminent demolition of the building on 24.12.2010 at 8.00 AM (tomorrow) and the appeal is also fixed before the appellate court on 24.12.2010, the instant revision petition is disposed of by staying demolition of the disputed building till 24.12.2010 evening so that the Petitioners may in the meantime obtain appropriate orders from the appellate court where the appeal is already fixed for 24.12.2010.

8. Copy of this order be given under the signatures of Special Secretary attached with the Bench.