
(2014) 07 P&H CK 0098

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. Nos. 12553 and 12600 of 2014

Hardev Singh and Others

APPELLANT

Vs

The Commissioner, Jalandhar Division and Others

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 — Section 2(c)(d)(e), 2(d), 2(e), 3, 3(a)

Citation : (2014) 176 PLR 606 : (2015) 1 RCR(Civil) 350

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : R.D. Bawa, Advocates for the Appellant

Judgement

Paramjeet Singh, J.—This order will dispose of CWP No. 12553 of 2014 titled "Hardev Singh v. The Commissioner, Jalandhar Division, Jalandhar and others" and CWP No. 12600 of 2014 titled "Dalbir Singh and others v. The Commissioner, Jalandhar Division, Jalandhar and others" as they arise from the common order. Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 30.11.2011 (Annexure P-5) passed by Deputy Commissioner, Gurdaspur exercising the powers of Collector under Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 and order dated 19.02.2014 (Annexure P-7) passed by Commissioner, Jalandhar Division, Jalandhar, whereby petitioners have been ordered to be evicted from the property in question.

1A. Brief facts of the case are that respondent No. 3 - Gurdwara Janam Asthan Baba Ram Thaman through its General Secretary Santokh Singh - filed a petition before the Collector, Gurdaspur, under the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 (for short "the Act") for eviction of the petitioners from the property situated in the area of village Khojala, Tehsil Batala, District Gurdaspur, on the ground of unauthorized occupancy. After

hearing the parties, Collector ordered eviction of the petitioners vide order dated 30.11.2011. Aggrieved against the order dated 30.11.2011, petitioners preferred an appeal before the Commissioner, Jalandhar, which has also been dismissed vide order dated 19.02.2014. Hence, instant writ petition.

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

3. Learned counsel for the petitioners vehemently contended that orders passed by authorities below are against the law and facts on record. Collector has committed material illegalities and irregularities in the proceedings before him. The order of the Collector as well as the appellate authority are not sustainable in the eyes of law. It is further argued that application of respondent No. 3 was not maintainable under the provisions of the Act. Petitioners are in actual cultivating possession of the land in dispute and are the proprietors of the village. Earlier they had filed a suit for permanent injunction restraining the respondents/defendants from interfering in their possession and dispossessing them illegally and forcibly. In that suit compromise was effected and statement dated 20.12.1997 (Annexure P-2 Colly) was made. In view of the statement of the parties before the Pre Lok Adalat, suit was dismissed vide order dated 20.12.1997 (Annexure P-2 Colly). Learned counsel for the petitioners contended that the statement has not been taken into consideration by authorities below, therefore, the impugned orders are not sustainable in the eyes of law.

4. I have considered the contentions raised by learned counsel for the petitioners.

5. It is admitted fact that petitioners entered into a lease dated 13.09.1988 (Annexure P-1) with respondent No. 3. The lease was for a period of three years. Although, the same has not been got registered but the fact remains that petitioners entered into possession in pursuance of the lease deed, which clearly indicates that their possession is as lessee. Although, such document is not admissible in evidence but it can be read for collateral purpose i.e. to take note of the fact that in what capacity petitioners had come into possession. Once, petitioners had come into possession for a period of three years and after that there is no fresh lease deed or any document, it certainly means that possession of the petitioners is unauthorized.

6. It would be appropriate to reproduce Section 2(c)(d)(e) of the Act which read as under:--

"2. Definitions.--In this Act unless the context otherwise requires, -

(a) xx xx xx xx

(b) xx xx xx xx

(c) "estate" means any area-

(i) for which a separate record-of-rights has been made; or

(ii) which has been separately assessed to land revenue, or would have been so

assessed if the land revenue had not been released, compounded for or redeemed; or

(iii) which the State Government may, by general rule or special order, declare to be an estate;

(d) "Religious Institution" means any gurdwara, temple, church, mosque, temple of Jains or Buddhas - which is registered under the provisions of the Societies Registration Act, 1860 (Central Act No. XXI of 1860) or is established under any statute and includes any other place of worship by whatever name, it may be called, which is registered as aforesaid or is established under any statute;

(e) "religious premises" means any land whether used for agricultural or non-agricultural purposes, or any building or part of a building belonging to a Religious Institution and includes. -

(i) the garden, grounds and out-houses, if any,

appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof."

Section 3 of the Act reads as under:--

"3. Unauthorised occupation of religious premises.--For the purpose of this Act, person shall be deemed to be in unauthorised occupation of any religious premises -

(a) where he has, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or

(b) where he, being an allottee, lessee or grantee has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such religious premises; or

(c) where any person authorised to occupy any religious premises has, whether before or after the commencement of this Act, -

(i) sub-let, in contravention of the terms of allotment, lease or grant, without the permission of the Religious Institution, the whole or any part of such religious premises; or

(ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such religious premises."

7. Admittedly separate record-of-right has been maintained in the name of Gurdwara Janam As-than Baba Ram Thaman and the same falls within the

revenue estate of village Khojala. In view of the definition of religious institutions, respondent No. 3 falls within the definition of Section 2(d) being a religious institution. Once the property is in the name of religious institution then it also falls within the definition of religious premises as defined under Section 2(e). Petitioners have accepted the ownership of Gurdwara Janam Asthan Baba Ram Thaman and the property was leased out to them under the signatures of its president. It is also clear that lease deed was for three years commencing from the date of execution i.e. 13.09.1988 meaning thereby that it was upto 12.09.1991 and thereafter there is no document on record extending the lease further. Definition under Section 3(a) clearly states that unauthorized occupant of religious premises means, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant and Section 3(b) specifies that where being an allottee, lessee or grantee by reasons of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, shall be ceased to hold the same and then it will be deemed as unauthorized. Explanation attached to Section 3 explains that for the purpose of clause (a), a person shall not merely by reason of the fact that he has paid, any rent be deemed to have entered into possession as allottee, lessee or grantee.

7A. In view of above, it is held that petitioners have entered as lessees and thereafter the lease deed stands determined. On determination of lease deed their possession is treated as unauthorized possession in view of Section 3 of the Act and the provisions of the Act will apply. As such petitioners have rightly been ordered to be evicted vide impugned orders.

Learned counsel for the petitioners has failed to show any illegality or perversity in the impugned orders.

Dismissed in limine.