

(1963) 03 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 665 of 1962

Hari Singh and Others

APPELLANT

Vs

The Military Estate Officer and Another

RESPONDENT

Date of Decision : 13-03-1963

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1958 — Section 2, 4, 9

Citation : AIR 1964 P&H 304 : (1963) 2 ILR (P&H) 229 : (1963) 65 PLR 615

Hon'ble Judges : Harbans Singh, J

Bench : Single Bench

Advocate : B.C. Chawla, for the Appellant; H.S. Doabia, A.A.G., for the Respondent

Judgement

Harbans Singh, J.—The Petitioners in this case were the sub-lessees of one Behari Lal to whom the land in dispute had been leased by the Military Estate Officer, Delhi Circle, having jurisdiction over the land in dispute which is situated within Ambala Cantonment. This Behari Lal was evicted some time back and it is admitted that till his eviction the lease money was being paid by the present Petitioners to Behari Lal and after he had been evicted they did not pay any amount to anyone. Treating them to be unauthorised occupants notice was served on them by the military authorities concerned u/s 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (Central Act 32 of 1958), hereinafter preened to as the Act, and after giving them a tearing the eviction order was passed. They went up in appeal to the District Judge, who is the Appellate authority u/s 9 of the Act. The only ground taken before this authority was that the Petitioners had not been given proper Opportunity. This argument was negatived and their appeal was dismissed. Thereafter they filed the present writ challenging the order of eviction mainly on two grounds. The first that the Act was ultra vires and secondly that the land in dispute being an agricultural land did not fall within the definition of the word "premises" as given in the Act and that the Parliament is not authorised to legislate in respect of agricultural land which is exclusively within the purview of the State Legislature according to

List II, item 18.

With regard to the first point it has already been decided by a Full Bench of this Court in *The Northern India Caterers Private Ltd. Vs. The State of Punjab and Another*, that the relevant provisions of the Punjab public Premises and Land (Eviction and Rent Recovery) Act, 1959 (Punjab Act 31 of 1959), were *intra vires*. As has been submitted in paragraph 8 of the present writ petition, the words of the Punjab Act are modeled on the words of the Central Act, and in view of this Full Bench decision the first point raised in this petition must be negated-

2. With regard to the second point, it is necessary to refer to definitions of "public premises" and "premises" as given in Section 2 of the Act. These are as follows:

2(b) "public premises" means any premises belonging to * * * the Central Government to * * * *

(i) * * * *

(ii) * * * *

(c) "premises" means any land or any building or part of a building and includes:

(i) the garden, grounds and outhouses, 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.

It is not disputed that the land in dispute belongs to the Central Government. Therefore, if the word "land" falls within the word "premises", then it would be public premises. Now "premises" means any land. *Prima facie*, therefore, any type of land -- whether it is used for agricultural or other purposes--would be covered by the word "premises". The argument of the learned Counsel "for the Petitioners, however, is that if we compare the definition of the "premises" given in the Act with the definition given in the Punjab Act, the inference, would be that the word "land" used in the Central Act does not mean to cover agricultural land.

In the Punjab Act "premises" has been defined as "any" land, whether used for agricultural or non-agricultural purposes "* * *" The mere fact that in the Punjab Act, which came subsequent to the Central Act, it was made specifically clear that the land would include agricultural or non-agricultural land, would not mean that "land" as used in the Central Act must necessarily be confined to land other than agricultural land. Without the use of any qualifying words restricting the meaning of, "land", it should be given, its natural meaning as land used for any purpose. The Learned Counsel, however, contended that the Parliament is not authorised by the Constitution to legislate with regard to agricultural land even if the same belongs to the Central Government; that item 18 in List II (State List) gives exclusive jurisdiction to the State Legislature to legislate about agricultural

land, and that proceedings, if any, could be taken only under the Punjab Act for the eviction of the Petitioners from the agricultural land in dispute.

I am afraid, I cannot accept this argument. Item 32 in List I (Union List) is as follows:

32. Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides.

Now, there can be no question that the land in dispute is the property of the Union and prima facie, the Parliament is authorised to legislate about the same, and if there is a legislation of the Parliament dealing with the matter the property would not be subject even to legislation of the State. The Act under consideration is an Act of Parliament dealing with the property of the Union and the mere fact that subsequently the Punjab Legislature also passed a similar Act which dealt only with "premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government * * *" would not mean that that Act is a legislation of the State Government dealing with the property in dispute. In fact, in view of the definition of "public premises" as given in the Punjab Act, that Act has nothing to do except with the property belonging to the State Government. In view of the above, therefore, it is obvious that" under item 32 the central legislation can and has dealt with the property belonging to the Union and the legislation in dispute cannot be impugned on that ground.

3. For the reasons given above, I find no force in this petition and consequently dismiss the same and discharge the rule. There would, however, be no order as to costs.