
(1993) 11 P&H CK 0113
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 10866 of 1988

Hindu High School

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-11-1993

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Haryana Urban Development Authority Act, 1977 — Section 17(3)

Citation : (1993) 105 PLR 455

Hon'ble Judges : R.P. Sethi, J;H.S. Bedi, J

Bench : Division Bench

Advocate : J.S. Manipur, for the Appellant; Jagdev Sharma, Addl. A.G. and S. Bhinder, D.A. and Ashutosh Mouhanta, for the Respondent

Judgement

R.P. Sethi, J.—The petitioner's school is being run by Hindu Educational Society, which is a registered society, has prayed for the issuance of a direction for quashing the show-cause notice dated 14-7-1988 issued by respondent No. 3 to respondent No. 4 with a copy of the petitioner u/s 17(3) of the Haryana Urban Development Authority Act, 1977 allegedly on the ground of the same being illegal, unlawful, unconstitutional, unjust, unwarranted, void, mala-fide bad, arbitrary and inoperative. All the averments made by the petitioner had vehemently been denied by the respondents in their written statement.

2. While dealing with similar circumstances, this Court in Civil Writ Petition No. 8389 of 1988, "Surat Singh v. State of Haryana and Ors.,¹ decided on 25.1.1990 had held that in view of the Full Bench judgement in this Court in Ram Puri v. Chief Commissioner, Chandigarh,² (1982) 84 P.L.R. 388, the petitioner has no right to convert the residential building for commercial purposes. It was held that in the larger interest and the crying need of planned urban development in order to prevent the mushroom growth of slums or the haphazard accumulations the authorities were authorised to take action and prevent the mis-use of the property in violation of the terms of the agreement

and the provisions of the law applicable in the case. For the reasons given in Surat Singh's case (Supra) we do not find any good ground to restrain the respondents from initiating action for eviction of the petitioner on the ground of commercial user of the property allotted to the landlord for residential purposes.

3. It has further been found on facts that no notice was issued to the petitioner but only a copy of the notice, Annexure P-6, was sent to him, This Court has held in Surat Singh's case (Supra) that:-

".....The point urged by their counsel Mr. Jawahar Lal Gupta being that not only the owner, but also the tenant of a building in respect of which an order of resumption is sought to be passed, is entitled to be heard. This is indeed in accord with settled law. It has been so laid down by the Full Bench of our Court in Brij Mohan v. Chief Administrator and Ors.,³, (1980) 82 P.L.R. 62, where in dealing with resumption u/s 8-A of the Capital of Punjab (Development & Regulation) Act, 1952, it was held that as the proposed order of resumption had the dual consequence of depriving the owner of the right of ownership in the site or building and also the occupant of his possession over such sites or buildings, both the owner as also the tenant in actual possession of such site or building, would be affected by the order and thus entitled to be heard before an order of resumption is passed."

4. In view of what has been discussed hereinabove the petition is disposed of in terms of the judgment rendered in Surat Singh's case (Supra) but with a direction that before initiating eviction proceedings a notice shall be issued to the petitioner wherein who is admittedly in possession of the premises and appropriate orders shall be passed only after affording the petitioner and the landlord an opportunity of being heard.