
(1999) 11 P&H CK 0079
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5652 of 1989

Kulbhushan Kumar and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 15-11-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 124 PLR 779 : (2000) 1 RCR(Civil) 323

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : O.P. Hoshiarpuri, for the Appellant; S.K. Bhatia, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

R.L. Anand, J.—In this case a preliminary objection was taken up by the learned counsel appearing on behalf of the State that the present writ is not maintainable and in support of her contention, the learned counsel for the State relies upon an order dated 24.4.1986, passed by the Hon"ble Division Bench in Civil Writ Petition No. 6040 of 1985, which reads as under:

"In view of preliminary objections 1 and 2 of the written statement filed on behalf of respondent No. 2, we do not find any merit in this petition. Dismissed."

In the aforesaid Civil Writ Petition No. 6040 of 1985, a challenge was given by the petitioner Shri Avtar Singh, to the Annexure P-1 and P-2. Vide Annexure P-1, notice was given by the Executive Officer, Municipal Committee, Kapurthala to Shri Avtar Singh that if he was interested to keep the plot/shop in question, after increasing 20 per cent rent for another three years, he may write to the Municipal Committee, Kapurthala in this regard, failing which, it would be deemed as if Shri Avtar Singh was not interested to keep the plot/shop in question. Vide Annexure P-2, the Government took a decision that in future the rent of the properties belonging to Municipal Committees/Notified Area

Committees, shall stand increased. With regard to class-I Municipal Committees, increase was 20 per cent after three years, with regard to class-I I Municipal Committees the increase was 15 per cent after three years and with regard to Class-III, Municipal Committees, the increase was 10 per cent.

2. The State took the objections that the Committee had decided to increase the rent in accordance with the instructions issued by the State Government for which it was competent to do so and it was in accordance with the terms and conditions of the contract entered into between the parties and, therefore, with regard to the enforcement of a contract the writ is not maintainable. This objection of the State found favour with the Hon"ble Division Bench, as a result of which, the writ of Shri Avtar Sin aforesaid was dismissed.

3. In the present case also, the challenge has been given by the petitioner to Annexures P-1 and P-2. Annexure P-1 is equivalent to Annexure P-2 of Avtar Singh's case (supra) and Annexure P-1 is a decision of the State Government conveying to the various Municipal Committees of the State of Punjab for the increase of the rent after the expiry of three years. The objection taken up by the State is on the same line as in the case of Shri Avtar Singh (C.W.P. No. 6040 of 1985). The decision of the Hon"ble Division Bench is to prevail and in these circumstances, the present writ is hereby dismissed as not maintainable with the observation that it will be always open to the petitioner to file a civil suit in the Court of competent jurisdiction against the State or the Committee. No order as to costs.