
(1999) 10 P&H CK 0043
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 907 of 1998

Mandir of Pir Sultan Mohammed Khan	APPELLANT
Vs	
Additional District Judge and Others	RESPONDENT

Date of Decision : 11-10-1999

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 5B(1)

Citation : (2000) 124 PLR 414 : (2000) 2 RCR(Civil) 357

Hon'ble Judges : Mehtab S. Gill, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : S.P. Singh, for the Appellant; Ritu Bahri, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.

1.This is a petition for quashing of the order dated 9.3.1996 passed by the Estate Officer, National Highway, Karnal u/s 5-B(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "the Act"). The other prayer made in the petition is for setting aside the judgment dated 15.1.1998 rendered by the Additional District Judge, Ambala on the appeal filed by the petitioner against the order of eviction.

2. On the grounds, on which the order passed by the Estate Officer is challenged, is that no notice or opportunity of hearing was given to the petitioner. The other ground on which the impugned order has been challenged is that it is ultra vires to the provisions of the Act. The judgment of the Additional District Judge, Ambala has been challenged on the ground that he has failed to consider the points raised on behalf of the appellant.

3. During the pendency of the writ petition, a large number of documents have been filed by the parties by which the petitioner has tried to establish that the land in question does not form part of the property of the Public Works Department and respondents No. 2 and 3 have tried to show that the property in

question belongs to them.

4. At the hearing of the case, learned counsel for the parties agreed that the order passed by the Estate Officer may be set aside and the issue as to whether the land in question falls within the ambit of the expression "public premises" may be decided afresh in the light of the additional evidence produced by the parties.

5. After perusing the record of the case, we are also satisfied that the order of eviction passed by the Estate Officer deserves to be set aside because it is totally bereft of reasons and the contentious issue as to whether the land in question falls within the definition "public premises" warranting the passing of an order of ejectment deserves to be decided afresh in the light of the voluminous evidence produced by the parties.

6. Hence, the writ petition is allowed. The order dated 9.3.1996 passed by the Estate Officer and the judgment dated 15.1.1998 passed by the Additional District Judge, Ambala are quashed/set aside with a direction that the Estate Officer shall decide the entire matter afresh after giving opportunity of hearing to the petitioner and other persons who may be adversely affected by the order of eviction. This he shall do within 4 months of the receipt of copy of this order.