

(1968) 09 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1696 of 1968

Moti Lal	Vs	APPELLANT
Union of India and another		RESPONDENT

Date of Decision : 20-09-1968

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1968) 09 P&H CK 0013

Hon'ble Judges : Gurdev Singh, J

Bench : Single Bench

Advocate : R.K. Chhibber, for the Appellant; G.K. Majithia D.A.G. Punjab, for the Respondent

Judgement

Gurdev Singh, J.—In this petition under Articles 226 and 227 of the, Constitution, Moti Lal, a lessee of shop-cum-office No. 44. situate in Sector 17-V, Chandigarh, which is Government property, impngnes the validity of the order of the Estate Officer, Capital Project, Chandigarh, dated 30th September, 1966, calling upon him to pay arrears of rent along with penalty, failing Which he has been threatened with cancellation of his lease and forfeiture of security. An appeal against this order was instituted by the petitioner, but the same was rejected by the Chief Administrator on 4th April, 1967, by merely ob-serving that the impugned order of the Estate Officer was not an appeasable order. A petition for revision against this appellate order has also been dismissed by the Chief Commissioner, Chandigarh, vide his order, dated 22nd April, 1968, holding: The revision does not lie under any section of the Capital Act". Apart from contending that the original order of the Estate Officer Capital Project, regarding arrears of tent and penalty is contrary to facts, not warranted by law and is discriminatory, the petitioner's Learned Counsel has contended that both the Chief Administrator, acting as Appellate Authority and the Chief Commissioner, to whom a petition for revision was taken, had gravely erred in holding that the appeal and the petition for revision were not maintainable. This legal contention, in my opinion, mast prevail. The impugned order of the Estate Officer, dated 30th

September, 1966, clearly falls u/s 8 of the Capital of Punjab (Development and Regulation) Act, 1952. Section 10(1) of the Act specifically provides that any person aggrieved by an order of the Estate Officer made under Sections 8 and 9 may appeal to the Chief Administrator. Subsection (4) of section 10 further gives a right to the aggrieved party to make an application to the State Government for revision of the order of the Chief Administrator passed under subsection (2) or sub-section (J) of that section.

2. Consequent upon the recent re-organization of the State of Punjab by Government of India notification. Ministry of Home Affairs, No. S.O. 3269 published in the Gazette of India (Extraordinary), dated 1st November, 1966, it has been directed by the President in pursuance of clause (1) of Article 239 of the Constitution of India that subject to his control and until further orders, the Administrator of the Union Territory of Chandigarh shall, in relation to the said territory, exercise and discharge, with effect from 1st November, 1966, the powers and functions of the State Government under any such law. On the combined reading of this notification and subsection (4) of section 10 of the Capital of Punjab (Development and Regulation) Act, 1952, it is obvious that the application for revision preferred by the present petitioner against the appellate order of the Chief Administrator, dated 4th April, 1967, lay to the Chief Commissioner, Chandigarh, and he was clearly in error in rejecting the same as incompetent. In this view of the matter, without going into the contentions raised on merits of the Estate Officer's order, I quash both the orders of the Chief Administrator, dated 4th April, 1967 and that of the Chief Commissioner, dated 22nd April, 1968, and direct that the appeal preferred by the petitioner against the order of the Estate Officer, Capital Project, Chandigarh, dated 30th September, 1966, (copy of which forms Annexure "C" shall be heard and disposed of on merits in accordance with law. The petitioner will be entitled to costs of this petition. Counsel's fee is fixed at Rs. 100/-.