

(2017) 05 SHI CK 0029
In the High Court Of Himachal Pradesh
Case No : 2341 of 2015

RAJINDER SINGH

APPELLANT

Vs

STATE OF HIMACHAL PRADESH AND OTHERS

RESPONDENT

Date of Decision : 03-05-2017

Acts Referred:

Citation : (2017) 05 SHI CK 0029

Hon'ble Judges : Sanjay Karol, Sandeep Sharma

Bench : Division Bench

Advocate : Anuj Nag, Shrawan Dogra, Anup Rattan, Romesh Verma, J K Verma, Ramakant Sharma, Soma Thakur

Final Decision : Dismissed

Judgement

1. Waking up from a deep slumber, petitioner tried to disturb the happiness and peace of respondent No. 5 ? Trust. But only after a pointed query from the Court, did it dawn upon the petitioner, the problem, in which he had landed himself by his misadventure. Challenge to the lease extended in the year 1993 was laid in a petition filed in the year 2015, notice in which came to be issued on 21.4.2015. Sensing the mood of the Court, in the petition being dismissed, to the credit of Mr. Anuj Nag, learned counsel, we stand persuaded in not to do so, with costs.

2. At this juncture we highly appreciate his fairness in informing that dismissal of the petition would only embarrass, if not prejudice, the cause of petitioner's children, who incidentally are studying in the very same school, so run by the respondent ? Trust, subject matter of the lis.

3. Vide lease deed dated 26.10.1993, land was allotted by the State in favour of Oswal Public Charitable Trust (respondent No. 5). Original lease stipulated the school to be run in the name of D.A.V. Public School, but however, though the leased land is being utilized for the specified purpose, but the school is run in another name i.e. Sri Aurobindo Public School.

4. The lessor makes no grievance of violation of any one of terms of the lease.

5. It is a matter of record that even earlier, this Court on the basis of newspaper reports, with regard to illegal allotment of the land, had taken cognizance and issued following directions in CWP No. 1798 of 2007, titled as Ajeet Singh Dhiman vs. State of H.P. & others, decided on 1.5.2013: "This petition has been filed as public interest litigation. We are informed by the counsel for the petitioner that sole petitioner has since expired. Since it is public interest litigation, the matter can proceed as suo motu proceedings.

2. The issue raised in this petition is about the terms of allotment of land admeasuring 15 bighas and 19 biswas to respondent No.3-Trust, on lease basis by the Authorities. The said lease was granted in favour of respondent No.3 in the year 1993 on perpetual basis on payment of rupee one as token lease rent. The State Authorities have now changed the terms and conditions of the said lease and have demanded market rent from respondent No.3 to continue to enjoy the leased property. We are informed by the learned counsel for respondent No.3 that respondent No.3 has agreed to abide by the said changed terms and conditions and in fact has deposited the amount, as demanded by the State Authorities. Respondent No.3 is in the process of executing the formal lease deed very shortly. Since the relief claimed in the petition is essentially about the improper allotment of the plot in question, to respondent No.3 on the premise that it has been allotted on token lease rent basis and is not being used for the purpose for which it has been let out. That grievance can be considered by the Secretary, Revenue Department to the Government of Himachal Pradesh. It will be open to the persons similarly placed, as the petitioner before this Court, to pursue that option, if so advised. If such representation is received from any quarter by the Secretary, Revenue Department, we have no manner of doubt that all aspects will be considered by the said authority including to issue direction for payment of additional market lease rent even for the period from the date of initial allotment or to cancel the lease on account of breach of or non compliance of the terms and conditions of the lease. All those questions will have to be decided by the said Authority on its own merits and in accordance with law. We may not be understood to have expressed any opinion either way on that matter. All questions are left open. 3. At this stage, counsel for respondent No.3 has brought to our notice that respondent No.3 has paid market lease rent as demanded, which includes arrears from the date of allotment and the plot is being used for school purpose. It is not necessary for us to examine the correctness of this submission, which will have to be considered by the Secretary, Revenue Department, Government of Himachal Pradesh, as abovesaid.

4. Accordingly, the petition is disposed of, so also the pending application(s), if any."

6. It is a matter of record that the issue came to be agitated by the petitioner for the first time with the filing of CWP No. 596 of 2015, titled as Rajinder Singh vs. State of H.P. & others, which came to be disposed of on 13.01.2015 with the following directions: "In the interest of justice, Secretary (Revenue) is directed to

decide the representation (Annexure P-5) made by the petitioner by a speaking/ detailed order within a period of eight weeks, from today. Till then the parties are directed to maintain status quo with regard to the nature and possession of the suit property."

7. It is a matter of record that such directions stand complied, with the Addl. Chief Secretary (Revenue) to the Government of Himachal Pradesh passing a detailed order dated 24.3.2015 (Annexure ?A), rejecting the petitioner's representation.

8. We do not find the petitioner's contention of allotment of land (approximately 15 bighas) to be in violation of the Himachal Pradesh Lease Rules, 1993, so framed under the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974. Noticeably, the Rules do prescribe maximum limit of the land which can be sanctioned for lease (Rule 5), but then they stood notified and published only w.e.f. 5.11.1993, after the date of execution of lease in favour of private respondent.

9. Save and except some newspaper cuttings, nothing is suggestive of the fact that any one of the terms of the lease came to be violated prior to the filing of the instant petition. In our considered view, petitioner ought to have done some homework as also acted with caution and promptitude.

10. Even with regard to the change of name of the school, that from D.A.V. Public School to Sri Aurobindo Public School, necessary sanction came to be accorded by the Financial Secretary (Revenue) to the Government of Himachal Pradesh vide letter dated 22.7.2002, as is evident from the response filed by the State.

11. Noticeably rates of lease are being enhanced from time to time. Significantly in the execution of the lease, petitioner does not allege any bias. It is not that for extraneous reasons, as undue favour, land came to be allotted in favour of the private respondent. No action for interference is called for. Impugned action cannot be said to be illegal. Hence for all the aforesaid reasons, present petition devoid of any merit is dismissed. Pending application(s), if any, also stands disposed of accordingly