
(2001) 04 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 16362 of 2000

Ravi Bansal and Others

APPELLANT

Vs

Haryana Urban Development Authority and Others

RESPONDENT

Date of Decision : 17-04-2001

Acts Referred:

Haryana Urban Development Authority Act, 1977 — Section 18(1)

Citation : (2002) 3 RCR(Civil) 301

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Ashok Gupta, for the Appellant; A.K. Sinha, for Tarun Jain, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The four petitioners claim that they are tenants of the premises bearing SCO No. 20, Sector 11, Panchkula. The notices dated April 18, 2000 issued by the Haryana Urban Development Authority u/s 18 of the Haryana Urban Development Act, 1977 (hereinafter referred to as "the Act") calling upon them to vacate the premises, copies of which have been produced as Annexures P-3 and P-4, are illegal. Thus, they pray that the notices be quashed and the respondent-Authorities be restrained from interfering with their peaceful possession.

2. The claim made on behalf of the petitioners have been controverted in the written statement filed on behalf of the respondents. It has been inter alia averred that the premises had been initially allotted to M/s Suresh Chand and 3 others. They had failed to pay the instalments. As a result, the Authority had resumed the premises, vide order dated November 11, 1991. The allottees had challenged this order by filing Civil Writ Petition No. 16494 of 1992 in this Court. They had undertaken to make the payment. The amount was not paid. Thereafter, C.W.P. No. 12810 of 1996 was filed. It was dismissed. SLP (C) No. 24949 of 1996 was also dismissed. Even an application for review filed in the

High Court was dismissed. After the order of resumption, the allottees could not have inducted any tenant nor can the petitioners claim any right in the premises. On this basis, the respondents pray that the writ petition should be dismissed.

3. Mr. Ashok Gupta, learned counsel for the petitioners, contends that the petitioners are tenants on the premises. A Rent Deed had been executed on August 19, 1999. A part of the premises had been taken on rent at the monthly rent of Rs. 28,000/-. In view of the provisions of Section 18 (1) (b) of the Act, the petitioners were entitled to be heard before they were asked to vacate the premises. Notices having been issued in conformity with the provision as contained in Section 18 (1) (b) of the Act, the respondents are not entitled to evict the petitioners.

4. The claim made on behalf of the petitioners has been controverted by Mr. A.K. Sinha, learned counsel appearing for the respondents.

5. The primary question that arises for consideration is - Are the petitioners tenants on the premises as claimed by them?

6. On behalf of the petitioners, it has been submitted that a regular Rent Deed had been executed on August 19, 1999. A copy of the alleged Rent Deed has been produced as Annexure P-1 with the writ petition. A perusal of this document shows that it was executed on a plain paper. On behalf of the landlords, the Attorney had executed the Rent Deed. Nothing has been placed on record to show that the Rent Note had been actually executed on the day it purports to have been. A circumstance which casts a serious doubt the authenticity emerges from a perusal of the civil suit filed by petitioner No. 1- Ravi Bansal. A copy of the plaint has been produced as Annexure P-6 with the writ petition. A perusal of this plaint shows the following statement in paragraph 2:

"The plaintiff took the portion of the SCO No. 20, Sector 11, Panchkula as detailed in the head note vide Rent Agreement dated 19.8.1999 from the proforma defendants No. 2 to 6 at the monthly rent of Rs. 28,000/-...."

7. Thus, it is clear that in the civil suit filed by petitioner No. I, he had claimed to be the sole tenant. However, in the document at Annexure P-I, which purports to be the Rent Deed, the name of Sarv/Shri Neeraj Bansal and Rajiv Bansal have been added. Still further, in the writ petition, a firm viz M/s. Hindustan Electronics also claims to be the tenant. Thus, it is clear that the stand taken by the petitioners in the suit before the Civil Court was totally different from that in the present writ petition. In the plaint which was filed in October 2000 and was duly verified by petitioner No. 1, the tenancy was claimed only on behalf of one person while in the writ petition a totally new story has been made out. Thus, it is apparent that the petitioners have taken different positions in the two proceedings. They have no regard for truth. They have cooked up a story to make out a plausible case.

8. It also deserves mention that the allottees had failed to make the payment of

the various instalments which had fallen due from time to time. Thus, the Authority had resumed the site on November 11, 1991. Despite that and on account of lengthy process of law, more than nine years have passed and the Authority has not been able to take possession of its property. Initially, the allottees had instituted the legal proceedings. When these culminated in the dismissal of the SLP the review petition was filed in this Court. It was dismissed. Thus the present petitioners appear to have put forward their claim as tenants to thwart the effort of the Authority to take possession of the property.

9. After consideration of the matter, we are satisfied that the Rent Deed is not a genuine document. The petitioners have no regard for truth. Different stories have been put up before different Forums. Thus there is no equity in favour of the petitioners which may persuade us to exercise our discretion in their favour.

10. Mr. Ashok Gupta contends that under the law, the petitioners had a right to be heard. Notices have been given to the petitioners u/s 18(2) (b) of the Act., While under the law, the provision is contained in Section 18(1) (b) only.

11. We have examined the notices, which are Annexures P-3 and P-4 with the writ petition. It is undoubtedly true that in the notice at Annexure P-3, reference has been made to Section 18(2) of the Act. A perusal of the document at Annexure P-4 shows that it clarifies the position and reference has been made to Section 18(1) (b) only. The respondent-Authority has explained the factual position. It has been stated that there is only a typographical error. This position appears to be correct. The petitioners are trying to take advantage of an inadvertent typographical error.

12. Mr. Gupta submits that the petitioners had a right to get 30 days" notice instead of 24 hours.

13. Normally, the contention would have been exceptionable. However, keeping in view the conduct of the petitioners and particularly the fact that different stands have been taken by them before different Courts, we are not inclined to interfere with the action of the respondents. It deserves mention that the notice u/s 18(1)(b) is primarily to provide a reasonable time to an unauthorised occupant to vacate the premises. In the present case, the petitioners have had more than sufficient time since April 18, 2000. The mere fact that the direction was for vacation of the premises within 24 hours and not 30 days, thus, caused no prejudice to the petitioners.

14. Mr. Gupta submits that the petitioners had a right to be heard before any order to their prejudice could be passed. We asked the learned counsel to indicate as to what possible plea could have been taken by the petitioners. None has been indicated, Thus, it is clear that the argument is being raised only to buy time and to defeat the effort of the Authority to take over possession. The petitioners have no right or title in the property. They merely tried to cook up evidence to take out a claim. There is no equity in their favour. They deserve no indulgence.

15. No other point has been raised.

16. In view of the above, we find no merit in this petition. It is, consequently, dismissed with costs. The costs are assessed at Rs. 10,000/-.