
(2003) 04 P&H CK 0101
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5922 of 2003

Tej Kaur

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-04-2003

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4(2)

Citation : (2003) 134 PLR 423 : (2003) 3 RCR(Civil) 129

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : C.L. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This order shall dispose of C.W.P. Nos. 5922, 5923, 5924, 5925 of 2003 as the facts and law points involving in these writ petitions are identical. The impugned orders in all cases have been passed by the same authority on the same date. We will refer to the facts as pleaded in C.W.P. No. 5922 of 2003 in this order.

2. The petitioners had been in possession ,of land belonging to the respondents from various dates commencing from the year 1957-58. Lease of the petitioner expired on 31.5.1979. The aforesaid lease had been granted to the petitioners on 1.6.1974 for a perod of five years. The petitioners after the expiry of the lease continued to be in unauthorised occupation thereof. The case of the petitioners for renewal of lease with effect from 1.6.1979 was recommendation to the higher authorities on 1.7.1995. The recommendation was not accepted by the Director, Defence, Estates, Ministry of Defence, Western Command, Chandigarh. This decision was communicated to respondent No. 3 by letter No. 21/87/JR/TK/L/DE/87 dated 29.8.1995. Since the petitioners failed to voluntarily hand over the vacant possession of the land, proceedings were initiated against them u/s 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 by issuing a show cause notice dated 15.2.2000 under Sub Section (1) and Clause (b)(ii) of

Sub Section (2) of Section 4 of the said Act. The petitioners submitted the written objections to the show cause notice through their counsel. It was stated by the petitioners that the show cause notice is not sustainable as the matter has already been referred by the competent authority for approval and no decision in regard to the matter had ever been intimated to the petitioners. Therefore, according to the petitioners, it can be presumed that the recommendations of the competent authority have been approved and the lease automatically stood renewed.

3. After taking the reply into consideration, the Estate Officer, passed the order of, eviction on 28.6.2002. The Estate Officer has passed a detailed order after taking into consideration the entire facts and circumstances of the case. It has been categorically held that the request of the petitioners was referred to the higher authorities for renewal as mentioned above. It has also been noticed that the matter has been turned down by the competent authority vide letter dated 29.8.1995. The Estate Officer thereafter discusses the definition of the expression "unauthorised occupation" as contained u/s 2(g) of the Public Premises Act. It has been held that the aforesaid expression is in two parts. The first part relates to the occupation by any person of the public premises without authority for such occupation. It implies and includes occupation by a person who has entered into occupation of any public premises without lawful authority as well as occupation which was permissive at the inception but has ceased to be so. It has been further held that the second part of the definition is inclusive in nature and it expressly covers continuance in occupation by any person of the public premises after the authority under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. In our view, the case of the petitioners squarely falls within the aforesaid definition. Undoubtedly, the lease by virtue of which the petitioners were in occupation of the land stood determined with effect from 31.5,1979, The request for future renewal of the lease was turned down by the competent authority on 29.8.1995. The petitioners have clearly been in an unauthorised occupation of the public premises.

4. We are in the considered opinion that the order passed by the Estate Officer does not suffer from any error apparent on the face of record. Not satisfied with the order, the petitioners filed appeals before the Appellate Authority under the Act i.e. in the Court of Shri Raj Shekhar Attri, Additional District Judge-cum-Authority, Jalandhar. After detailed discussion, the appeals filed by the petitioners have also been dismissed.

5. After hearing the learned counsel for the petitioners and after perusing the entire record, we are unable to hold that the leases of the petitioners were either renewed or deserve to be renewed. The petitioners' have been rightly held to be in unauthorised occupation of defence lands.

6. Leamed counsel for the petitioners was at pains to point out that the petitioners could only be evicted from the land if the same was required by the

local Military authority for specific purpose. Learned counsel has relied upon the judgment of this Court in CWP No. 4062 of 1970 decided on 16.8.1972.

7. The aforesaid judgment does not decided any question of law, as the writ petition was decided on the basis of a compromise.

8. In view of the above, these petitions are hereby dismissed. Costs Rs. 500/- in each case.