



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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RSA-185-2022

Date of decision : 15.05.2025

Gurudwara Shri Guru Granth Sahib Ji

..... Appellant

versus

Kalghidhar Educational Trust and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Promila Nain, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Defendants are in appeal.
2. Plaintiff filed suit for declaration to the effect that the plaintiff continues to be a lessee under defendant No.1 vide lease deed dated 25.09.1997. Plaintiff further sought decree of permanent injunction restraining defendants from forcibly and illegally dispossessing the plaintiff trust from the property in question.
3. As per the plaintiff, the plaintiff-trust was constituted on 28.02.1996. Establishing and running educational institutions is one of the defined objectives of the Trust. Defendant No.1 owner of 8 acres of suit land, leased out the same to the plaintiff for 99 years. Apprehending threat of dispossession at the hands of the defendants, who were accusing plaintiff of having sub-letted the land, plaintiff filed suit. The basis of apprehension is the resolution passed by defendant No.1 resolving to



cancel the lease deed. Plaintiff thus, filed the present suit seeking decree of declaration to the effect that he continuous to be in possession of the suit land as lessee on the strength of lease deed dated 25.09.1997 and the same remains operative. Decree of perpetual injunction to protect possession is also prayed for.

4. Suit was contested by the defendants. Defendants raised issue regarding maintainability of the suit relying on the provisions contained under Section 41(h) of the Specific Relief Act, 1963. Further reliance is placed upon Section 12 of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997. Defendants claimed that defendant No.1 to 3 have filed petition under Section 5 of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 seeking eviction of the plaintiff out of the suit property. The same is pending before Collector, Ludhiana. Defendants further claimed that the plaintiff being in breach of the condition of lease deed cannot be allowed to seek refuge under law. Keeping in view the pendency of proceedings under 1997 Act, jurisdiction of Civil Court is barred.

5. On the basis of the pleadings, following issues were framed:-

“1. Whether the plaintiff is entitled to declaration and permanent injunction as prayed for? OPP

2. Whether the suit is not maintainable in the present form? OPD

3. Whether the plaintiff has no locus standi to file the present suit? OPD

4. Whether the jurisdiction of Civil Court is barred under Section 12 of Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997, if so its effect? OPD



5. *What is the effect of dismissal of petition under Section 5 of Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 filed by the defendants against the plaintiff by the Court of Collector (Deputy Commissioner), Ludhiana? OPD*
6. *Whether the suit is barred under Section 41-H of Specific Relief Act? OPD*
7. *Whether the plaintiff has not complied with the terms of the lease deed? OPD*
8. *Whether the suit is bad for misjoinder of parties? OPD*
9. *Relief.”*

6. Trial Court found that eviction proceedings were initiated by defendants against the plaintiff under the provision of Section 5 and 6 of 1997 Act. The said application was dismissed in default vide order dated 29.07.2005. Application seeking restoration was filed. The same was also dismissed vide order dated 23.02.2007. Defendants preferred appeal. The said appeal was also dismissed vide order dated 19.02.2008. Further appeal was preferred before Financial Commissioner Appeals, Punjab, which was also dismissed vide order dated 17.12.2009. Defendants further preferred Civil Writ Petition before this Court which also stands dismissed vide order dated 03.05.2012. The Trial Court further found that the lease deed has not been cancelled by defendant No.1 till date. The eviction proceedings initiated under 1997 Act have attained finality under the orders passed by High Court on 03.05.2012. Thus, Trial Court decided issue No.1 in favour of the plaintiff and against the defendants. Resultantly, the suit of the plaintiff was decreed holding that the plaintiff-trust is a lessee under defendant No.1 vide lease deed dated 25.09.1997. Defendants were thus, restrained from dispossessing



the plaintiff except in due course of law.

7. The aforesaid findings stand affirmed by the Lower Appellate Court.

8. Counsel for the appellant has assailed the findings returned by the Courts below and prays for setting aside the judgment and decree vide whereby the suit filed by the plaintiff stands decreed.

9. Ms. Nain has drawn attention of this Court to Section 12 of 1997 Act to submit that Civil Court has no jurisdiction to entertain any suit or proceedings in respect of the eviction of any person in unauthorized possession of any religious premises. She thus, submits that the Courts below not only entertained the suit, but even decreed the same. Thus, the impugned judgment and decree passed by both the Courts below being in teeth of the bare provision of law need to be set aside and the suit filed by the plaintiff be ordered to be dismissed.

10. I have heard counsel for the appellant and have carefully gone through the records of the case.

11. The sole plank of argument raised by the counsel is based upon the provision as contained under 1997 Act. It will be thus, apt to peruse the provisions of 1997 Act to appreciate the arguments raised. The relevant provisions read as under:-

“3. Unauthorised occupation of religious premises.

- For the purposes of this Act, a person shall be deemed to be in unauthorised occupation of any religious premises-

(a) where he has, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or



(b) where he, being an allottee, lessee or grantee has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such religious premises; or

(c) where any person authorised to occupy any religious premises has, whether before or after the commencement of this Act,-

(i) sub-let, in contravention of the terms of allotment, lease or grant, without the permission of the Religious Institution, the whole or any part of such religious premises; or

(ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such religious premises.

Explanation. - For the purpose of clause (a), a person shall not merely by reason of the fact that he has paid any rent be deemed to have entered into possession as allottee, lessee or grantee.

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5. Eviction of unauthorised persons.

(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Collector is satisfied that the religious premises are in unauthorised occupation, the Collector may make an order of eviction, for reasons to be recorded therein, directing that religious premises shall be vacated, on such date not being the date beyond the period of forty-five days from the date of receipt of application by him under section 4 and as may be specified in the order by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the religious premises or of the estate in which the religious premises are situated.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of order made under sub-



section (1), the Collector or any other officer duly authorised by him in this behalf may evict that person from and deliver the possession of the religious premises to the concerned Religious Institution and, may for that purpose, use such force as may be necessary.

6 to 11 xxx

12. Bar of jurisdiction.

- No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any religious premises or the recovery of the arrears of rent payable under sub-section (1) of section 6 or the damages payable under sub-section (2) of that section or the costs awarded to Religious Institution under sub-section (5) of section 8 or any portion of such rent, damages or costs.”

12. The aforesaid provisions came up for consideration before Division Bench of this Court in *Harbhajan Singh vs. State of Punjab and others* reported as **2006(4) RCR(Civil) 917**. While dealing with the challenge to the vires of the provisions contained under 1997 Act, the Division Bench observed as under:-

“11. Section 3 of the Act provides that a person shall be deemed to be in unauthorised occupation of any religious premises, where he has whether before or after the commencement of the Act, entered into the possession thereof, otherwise than under and in pursuance of any allotment, lease or grant, or where he being an allottee, lessee or grantee has by reason of the determination or cancellation of his allotment, lease or grant, ceased to be entitled to occupy or hold such religious premises or where such person duly inducted in the premises had sublet, without any authority/permission or where he had acted in contravention of any terms of the lease/grant. The explanation to Section 3 specifically provides that merely on account of the fact that such a person had paid any rent shall not be deemed to have entered into possession as an allottee,



lessee or grantee. Thus, it is clear that a person who had entered the religious premises on a valid allotment, lease or grantee shall not be treated as an unauthorized occupant, for the period, the aforesaid allotment/lease or grant subsists but shall be so treated as a unauthorised occupation, after the determination or cancellation of the allotment, lease or grant or on violation of the terms of the allotment etc., or on sub-letting. The explanation specifically provides that mere payment of rent by a person shall not raise any presumption that he had entered into possession as a allottee, lessee or grantee, meaning thereby that such a person was required to prove that he was validly inducted as a lessee or grantee. By any stretch of imagination, the aforesaid explanation cannot be interpreted to mean that even when a person had been inducted authorisedly and validly initially and had been paying rent, he could still be treated as an authorised occupant. On the other hand, if a person had not been so inducted authorisedly in the beginning, the mere payment of rent by him could not confer upon him any legitimacy. The aforesaid provisions of Section 3 and even the explanation appended thereto, do not confer any arbitrary power on the Collector and cannot be termed to be vague or indefinite in any manner. The status and character of an occupant is required to be determined at the time of his initial induction and after the determination of his status by efflux of time or cancellation of allotment, lease, grant etc. The apprehension expressed by petitioner, stressed by the learned senior counsel during the course of argument, with regard to explanation to Section 3 is totally without any basis. We do not feel that explanation to Section 3 suffers from any infirmity or illegality.

12. A detailed and comprehensive procedure is provided under Sections 4 and 5 of the Act for evicting the unauthorised occupant. If the Collector is satisfied of the unauthorised occupation of a person, then eviction order shall be passed against that person after following due procedure. A person aggrieved against the order of the Collector can file an appeal before the Commissioner under Section 8 of the Act. The Act



is, thus, a complete code in itself and deals with classified institutions with regard to the eviction from property owned by them in unauthorised possession of an occupant. Neither the provisions of the Act can be termed to be contrary conferring any unguided and unfettered powers on the Collector nor can it be said that the Act in question suffers from any violation of any of the provisions of the Constitution of India.”

13. Counsel appearing for the appellant also relies upon the same. In the present case, admittedly, plaintiff was inducted on the strength of a valid lease deed. Defendant-appellant claims that plaintiff is in unauthorized occupation being in breach of the conditions of the lease deed. It has come on record that the eviction proceedings were initiated by defendant No.1 against the plaintiff. Defendant failed in his attempt. The order dismissing the eviction petition filed by defendant No.1 has attained finality. Thus, as on date, there is no declaration by the authorities as prescribed under 1997 Act regarding plaintiff being in unauthorized occupation of the premises. It being so, the appellant cannot invoke bar as contained under Section 12 of 1997 Act. Reliance on the provision under Section 12 of 1997 Act is misplaced. Section 12 does not bar suit for injunction filed by the tenant to protect his possession against unauthorized dispossession. It is only in view of the provision contained under Section 9 of 1997 Act which provides for finality to the orders passed by forum provided under 1997 Act that the jurisdiction of the Court has been barred. Civil Court cannot entertain any suit or proceeding in respect of eviction of person in authorized occupation of any religious premises. The bar as contained under Section



12 of 1997 Act cannot be invoked to oust the tenant, who is in authorized possession on the strength of written lease deed to protect his possession. To invoke bar under Section 12 to oust the jurisdiction of Civil Court, declaration of possession of lessee being unauthorized by competent authority is *sine qua non*.

14. Moreover, the Courts below have granted decree of injunction to the plaintiff and has protected his possession restraining defendants from interfering except in due course of law. The injunction so granted does not divest defendant-appellant from initiating eviction proceedings under 1997 Act.

15. Finding no merits in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

15.05.2025

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

Yes