

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****126****CR No. 5747 of 2025****DATE OF DECISION :- 25.08.2025****Sub Divisional Magistrate (South) and another****...Petitioners****Versus****Yash Paul Jain****...Respondent****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:-** Ms. Shubreet Kaur, Advocate for the petitioners.*********VIRINDER AGGARWAL, J. (Oral)**

1. This petition under Article 227 of the Constitution of India has been directed against the order dated 18.01.2025 passed by learned Additional District Judge, Chandigarh vide which de-sealing of the premises in dispute was ordered subject to the condition of respondent depositing 50% of the outstanding dues in the statutory appeal assailing the order dated 09.10.2024 on the grounds that learned Appellate Court has exceeded its jurisdiction as the order dated 22.08.2023 passed by petitioner No. 2 under the Capital of Punjab (Development and Regulation) Act, 1952 cancelling the allotment has neither been stayed nor set aside by the Chief Administrator, Chandigarh, the competent authority under the Act.

2. The Booth in question was allotted to Gian Chand, predecessor in interest of respondent subject to the directions and conditions mentioned



in the LOI dated 25.02.2008. Lease was of 33 years and subject to renewal of two such like periods. In the enquiry conducted by Additional Deputy Commissioner, U.T., Chandigarh it was found that Gian Chand obtained allotment fraudulently by furnishing false affidavit and by suppressing the material facts so a show cause notice was served upon Gian Chand, who submitted reply dated 03.04.2012. Opinion of standing counsel was obtained, who opined that the drafts received by the Estate Office on account of his instalments may not to be returned but in acknowledgement it should be stated that the amount had been accepted subject to the outcome of enquiry. Accordingly, it was done so. Respondent, after death of Gian Chand on 04.02.2013 applied for transfer of Booth in his name and Estate Officer informed him about the dues pending against him on account of premium, ground rent and interest, service tax and interest. Respondent submitted two demand drafts dated 13.11.2013 of Rs.5,02,000/- and Rs.10,500/- in the Estate Office. The demand drafts were returned to the respondent on 28.05.2014. Another two drafts of the same amount were submitted to the Estate Office which were accepted vide receipt dated 14.07.2014. The Estate Office intimated respondent about the outstanding dues upto 31.3.2022 but respondent did not take any steps to deposit said dues. Petitioner No. 2, exercising powers of Estate Officer issued show cause dated 02.09.2022 to the respondent under Section 8A of Capital of Punjab (Development and Regulation) Act, 1952 read with Rule 14 of Chandigarh Estate Rules, 2007 along with condition No. 7 of the allotment letter. Respondent failed to deposit the dues. Petitioner No. 2 cancelled the lease of the Booth and ordered to forfeit 10% of the premium, ground rent and other dues paid in respect of the lease of the property vide order dated 22.08.2023 and



proceedings under The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was also ordered. Sub Divisional Magistrate (South) exercising the powers of Estate Officer issued notice dated 08.12.2023 under Section 4(1) of The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to respondent and passed the order dated 09.10.2024 directing respondent and others to vacate the premises within 15 days. Respondent filed Civil Appeal before the learned Additional District Judge, Chandigarh assailing the order of ejection along with an application for interim stay. Petitioner-respondents appeared and sought time to file reply. Reply was filed and subsequently vide impugned order dated 18.01.2025 learned Additional District Judge, Chandigarh disposed of the application with directions to de-seal the Booth subject to deposit of 50% of the outstanding amount within one month.

3. The order has been assailed in the present petition on the grounds that learned Additional District Judge, Chandigarh has exceeded the jurisdiction vested in him as per The Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The order dated 22.08.2023 passed by petitioner No. 2 cancelling the allotment has neither been stayed nor set aside by the competent authority and appeal is pending before Chief Administrator, Chandigarh. The authorities under The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Capital of Punjab (Development and Regulation) Act, 1952 are distinct. The impugned order dated 18.01.2025 has rendered the proceedings initiated by show cause notice and order cancelling the lease under the Capital of Punjab (Development and Regulation) Act, 1952, a nullity; so the impugned order be stayed.



4. I have heard learned counsel for the petitioner and gone through the impugned order.

5. Para No. 4 of the impugned order is reproduced as under :-

“4. The present appeal along with stay application has been filed by the applicant against the order of eviction dated 09.10.2024 passed by Estate Officer under Section 5(1) of the Public Premises Act on the ground of non payment of outstanding amount of Rs.11,14,442/-. As per the applicant, booth in question is the only means of livelihood of the applicant, which was sealed by the respondents on 20.11.2024. Keeping in view the fact that the appeal against the order of cancellation of lease deed of the applicant is pending before the Chief Administrator, Chandigarh and the fact that the booth in question was sealed during the pendency of the appeal, it is ordered that the booth in question be de-sealed subject to the deposit of 50% of the aforementioned outstanding amount with the respondents, within the period of one month. The observations made above while disposing of this application, shall not be treated as expression of opinion by this court on the merits of the main appeal.

Now to come up on 29.04.2025 for arguments.”

6. Vide this order, the learned Additional District Judge has nowhere encroached upon the jurisdiction of Appellate Authority under Capital of Punjab (Development and Regulation) Act, 1952 i.e. Chief Administrator, Chandigarh where the proceedings with regard to appeal against cancellation of allotment are pending as petitioners after cancellation of the allotment has filed a petition under The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for ejectment of the respondent and has passed an ejectment order. Appeal before the learned District Judge against that order is competent and the competent authority can set aside the order passed by



the Estate Officer under Public Premises Act. When power to set aside the order is there with the learned Additional District Judge, learned Additional District Judge, Chandigarh has power to modify the order also.

7. I find that there is no encroachment upon the jurisdiction of Appellate Authority under Capital of Punjab (Development and Regulation) Act, 1952 and the learned learned Additional District Judge has not exceeded its jurisdiction. No ground is made out to interfere in the impugned order. The revision petition stands dismissed.

(VIRINDER AGGARWAL)
JUDGE

25.08.2025

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No