

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

129

Civil Writ Petition No.12668 of 2015

Date of Decision: June 29, 2015

Shashi Bhushan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.K. Agnihotri, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court impugning the order passed by the Tribunal under the Haryana Maintenance of Parents and Welfare of Senior Citizens Act, 2007, dated 15.05.2015 (Annexure P-2/T) by which the application preferred by respondent No.4-father of the petitioner, has been allowed.

It is the contention of the counsel for the petitioner that the petitioner was, along with his father and another brother, residing in the house in question since the year 1987. Thereafter he built his own house and shifted to the same but one room, one kitchen and one toilet are in his possession. He states that since it is an ancestral property situated within the *lal dora* in the village, the order of the Tribunal directing eviction of the petitioner from the house in question is not sustainable. He further states that number of the portion of the house, which in possession of the petitioner is House No.38, whereas the area which is in possession of the father of the petitioner bears House No.39. He thus contends that it is an separate

independent house. He contends that the petitioner is 55 years old and since he also has two sons and a daughter, he would need a place to reside after some time when the children will get married. Counsel thus submits that the present writ petition may be allowed.

I have considered the submissions made by counsel for the petitioner and have gone through the records of the case with the assistance of the counsel.

It is not in dispute that the house in question although is an ancestral property but is in the name of respondent No.4-father of the petitioner. The number of the houses may be different but that would not make any difference as the owner of the property is the father of the petitioner i.e. respondent No.4. It is also not in dispute that the petitioner is merely occupying one room, kitchen and toilet and is residing separately, whereas the father of the petitioner is residing with his younger son. The evidence, which has been led before the Tribunal, has been dealt with in detail in the impugned order dated 15.05.2015 (Annexure P-2/T), the conclusion whereof reads as follows:-

“As per circumstance of the present case status report was called from Naib Tehsildar, Sahazadpur. As per the report of Naib Tehsildar vide sr.no.589 dated 11.03.2015 he has inspected the house on spot of the applicant. It is the ancestral house of the applicant. People present on spot told that Shashi Bhushan son of the applicant illegally occupied one room of the house. The room was locked at the spot and same was locked by Shashi Bhushan. Both the parties were tried to make understand at the spot, but both the parties remained adamant on their versions and did not agree to a compromise.

Tribunal has gone through the file. After hearing both the parties and inspecting the status report the tribunal has reached to the conclusion that the applicant is an old age person who is

annoyed with the illegal possession on his house by his son Shashi Bhushan. This complaint has been filed by the father due to differences between father and son. This is found to be correct. Defendant is a patwari by profession and reside separately from his father alongwith his family in his own house. In this circumstance there is reason to illegally occupy one room in the house of his father and locking the same. The father also has not demanded any compensation or anything else in the complaint. He only wants to get vacated the one room of his house which was locked by the defendant and he also does not reside there. Until the parents are alive they are the owners of their house. The possession by the defendant on the house of applicant is illegal and against their wish. Therefore, the application of the applicant/complainant is accepted. Defendant is disowned from the house of applicant. It is ordered that he will remove illegal possession himself within 15 days. File be consigned to record room after the time expired”.

This Court is in agreement with the above and, therefore, does not find any merit in the present writ petition, same, therefore, stands dismissed.

June 29, 2015*Puneet***(AUGUSTINE GEORGE MASIH)
JUDGE**