

CWP No.24074 of 2015

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

CWP No.24074 of 2015
Date of decision: 10.12.2015

Sachin Kumar and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Arjun Veer Sharma, Advocate, for the petitioners.
Mr. S.S. Chandumajra, Addl. A.G, Punjab.
Mr. Atul Goyal, Advocate, for respondents No.3 and 4.

PARAMJEET SINGH, J. (ORAL)

In pursuance of order dated 10.11.2015 petitioners and respondents No.3 and 4 are present in Court. There is no scope of settlement between them.

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* for quashing the order dated 14.10.2015 (Annexure P-5) passed by respondent No.2 – District Magistrate-cum-Deputy Commissioner, Ludhiana, whereby petitioners have been ordered to vacate the property within 30 days.

Brief facts of the case are that petitioners No.1 and 2 are son and daughter-in-law of respondents No.3 and 4, respectively.

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Respondents No.3 and 4 filed an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act') against the petitioners alleging that they are the owners of H. No.2534, Sector 32-A, Chandigarh road, Ludhiana. They have purchased the house in question with very hard earned money. Petitioners started harassing respondents No.3 and 4. In pursuance of notice, parties appeared before the District Magistrate. District Magistrate after hearing the parties and considering material on record of the case, allowed the application and ordered eviction of the petitioners from the house in question vide order dated 14.10.2015 (Annexure P-5). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that impugned order is illegal, null and void and is not binding on the rights of the petitioners. Petitioners have no separate house to live. Therefore, impugned order is liable to be set aside.

On the other hand, learned counsel for respondents No.3 and 4 vehemently contended that impugned order is legal and valid. The order has been passed in consonance with the provisions of the Act to protect the rights of senior citizens.

I have considered the contentions raised by learned counsel for the parties.

I had the occasion to deal with almost the identical dispute in

Ashwinder Singh and another v. Bhagwant Singh and another, 2014

(3) R.C.R. (Civil), 906 . It would be apposite to reproduce relevant paragraphs:-

“This unfortunate regular second appeal is a poignant reminder of decaying social values and traditions in our country. The case is telltale story of how children have become detached in today's commercialized world and are making attempts to throw out their aged parents from the property which the parents have acquired during their lifetime. It is perfect example of children becoming insensate towards parents/senior citizens.

“Maatru Devo Bhava” (revere your mother as God) and “Pitro Devo Bhava” (revere your father as God) is a well-known proverb.

2. On page 1200 of Sri Guru Granth Sahib, Sri Guru Ram Dass has written that “KAAHAY POOT JHAGRAT HA-O SANG BAAP / JIN KAY JANAY BADEERAY TUM HA-O TIN SIO JHAGRAT PAAP//” (O son, why do you argue with your father? It is a sin to argue with the one who fathered you and raised you.).

3. The above words of prudence guide us that we have to treat our parents as God. Modernization, technological advancement and social liability have changed our life-style and values. Sadly, our bent of mind and responsibility towards parents has degenerated. We have forgotten about Sharavan Kumar, who placed his blind parents in two baskets and carried the baskets on his shoulder to various places of pilgrimage. We have also forgotten the duties of a son towards aged parents. We have completely given up our ancient traditions when parents were most revered and respected.”

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This Court in **Manmohan Singh v. Union Territory, Chandigarh and others**, CWP No.1365 of 2015 decided on 02.11.2015 has held as under: -

“Perusal of order (Annexure P/6) reveals that House No. 763, Sector 43-A, Chandigarh stands transferred in the name of the petitioner vide transfer letter dated 16.08.2013. Respondent No.3 and his wife used to give thrashing to the petitioner, aged 83 years and his wife, aged 80 years, in fact they had made the living of these old people hell in the evening of their life. Admittedly, House No. 763, Sector 43-A, Chandigarh was purchased by the petitioner and his wife on power of attorney and later on transferred in the name of Parkash Kaur and thereafter transferred in the name of the petitioner. The provisions of the Act provide for protection of the property of the senior citizens. Respondent no.3 and his family appear to have taken possession of house with an oblique motive to grab the property in question and is in possession of the same against the wishes of the petitioner – owner. Admittedly, respondent no.3, his wife and children started residing in the house in question with the permission of the petitioner and at the most are licencees. The licence stands terminated the moment petitioner conveyed the respondents and his family members to termination of the licence. There is no vested right in the licensee(s) to remain in possession of the property of the petitioner. Although petitioner has approached civil court for ejectment of respondent no.3 under the compelling circumstances, may be due to wrong advice. The remedy under the Act is summary in nature and the provisions of the Act have overriding effect qua any other enactment in view of Section 3 of the Act. The jurisdiction of civil court is barred in view of Section 27 of the Act.”

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Perusal of judgment passed in ***Manmohan Singh*** (supra) makes it clear that once the ownership of the house/property in question is admitted to be in the name of senior citizens, son and his family members reside as a licensee in that house/property and they have no other right. So has been held by a Division Bench of this Court in ***Gurpreet Singh v. State of Punjab and others***, CWP No.24508 of 2015 decided on 01.12.2015.

Admitted facts of the case in hand are to the effect that respondent No.4 is the owner of house which she had constructed with the help of respondent No.3. Petitioners were provided one room and a kitchen by respondents No.3 and 4 on the first floor for their use but petitioners started fighting and maltreatment with respondents No.3 and 4. As a result of which respondents No.3 and 4 disowned the petitioners and a notice to that effect was published in newspapers Indian Express and Ajit on 30.01.2015. Instead of stopping harassment to respondents No.3 and 4, petitioners started demanding money for vacating the house.

Keeping in view the conduct of the petitioners, in view of the judgment of this Court in ***Manmohan Singh*** (supra) and Division Bench judgment of this Court in ***Gurpreet Singh*** (supra), at the most status of the petitioners in the house of respondents No.3 and 4 is of licensee and they have no vested right in the said house.

It needs to be mentioned here that petitioners have already approached the civil Court for this purpose. Since the proceedings are summary in nature, jurisdiction of the civil Court is barred in view of

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Section 27 of the Act. Senior citizens have a right to invoke the provisions of the Act for summary eviction of the trouble makers specifically family members.

In view of above, I do not find any illegality or perversity in the impugned order and no ground for interference is made out.

Dismissed.

(Paramjeet Singh)
Judge

December 10, 2015
R.S.