

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.24796 of 2015

Date of decision: December 02, 2015.

Harpreet Kaur and another

... **Petitioners**

v.

State of Punjab and others

... **Respondents**

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

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Shri Girish Agnihotri, Sr. Advocate with
Shri Arvind Seth, Advocate, for the petitioners.

Shri Manoj Bajaj, Additional Advocate General, Punjab.

Shri Akshay Bhan, Sr. Advocate with
Shri Rahul Rampal, Advocate for respondent No.3.

Hemant Gupta, J. (oral)

Challenge in the present writ petition is to an order of District Magistrate, Ludhiana passed on 19.8.2015 whereby on a complaint by Shri Baldip Singh son of Hardit Singh, respondent No.3 herein, a senior citizen, an order was passed for eviction of the present writ petitioner and her husband and their son in proceedings under the Maintenance of Parents & Senior Citizens Act, 2007 (for short the Act).

Shri Baldip Singh filed a complaint before the District Magistrate under the provisions of the Act and in terms of Action Plan framed by the State Government seeking eviction of his son, daughter-in-law and grandson inter-alia in terms of the Act on the ground that he is

being harassed and is not permitted to pass the life peacefully. As per the impugned order, notice of the said application was issued on 22.7.2015 and summons through Tehsildar, Ludhiana (East) were sent, but, none appeared on behalf of the respondents before the District Magistrate and consequently the order of eviction was passed on 19.8.2015.

In the present writ petition, the challenge is to an Action Plan notified by the State Government on 27.11.2014 and also that the order of the District Magistrate is an ex-parte order as the petitioner was not served, therefore, the principles of natural justice have not been complied with. It is also argued that the petitioner is having dispute with her husband and has invoked the jurisdiction of the Magistrate under the provisions of the Protection of Women from Domestic Violence Act, 2005 wherein an order has been passed by the trial court for granting maintenance to the petitioner. Thus, the proceedings under the Act are not tenable.

The action plan notified by the State Government was challenged in another writ petition bearing CWP No.24508 of 2015 (Gurpreet Singh v. State of Punjab and others), which has been decided on 1.12.2015 by this Court, wherein action plan notified has been found to be validly made. In view of the decision referred to above, the challenge by the petitioner to the action plan notified is not sustainable.

In respect of an argument that the petitioners were not served, suffice it to say that there is a finding that the petitioner was served through a show cause notice dated 21.7.2015 and were summoned through Tehsildar, Ludhiana. Secondly, petitioner No.1 and her husband Narinder Pal Singh

are the licencees under Baldip Singh complainant. The husband of the petitioner who is a licensee and the petitioner and her son are permitted to stay in the house only as a licensee of the owner i.e. Baldip Singh. As a licensee, husband of petitioner No.1 or the Petitioner or her son has no interest in title of the property but is permitted to occupy the premises at the will of the licensor. Admittedly, the husband of the Petitioner No.1 was served but had not put appearance before the District Magistrate. Once the husband was served, the petitioners as members of the family of son of the Complainant cannot claim any independent right in the property of the senior Citizen. In view of the said fact, we do not find that the petitioner can be permitted to make any grievance in respect of ex-parte proceedings initiated against the petitioner.

The complaint filed by the petitioner under the Protection of Women from Domestic Violence Act, 2005 does not deal with the property in question. The petitioner has been awarded maintenance, to be paid by her husband. It does not affect any of the rights of the owner of the premises, i.e., her father-in-law.

In view of above, we do not find any merit in the petition. The same is consequently dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

December 02, 2015.
kadyan