

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

CWP No.3161 of 2014 (O&M)
Decided on :17.11.2015

T.S.Virk

.... Petitioner

vs.

State of Punjab & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sudeep Mahajan, Advocate
for the petitioner.

Mr. D.S.Sobti, Addl. AG, Punjab.

Mr. M.K.Dogra, Advocate
for respondent Nos.5 & 6.

Rakesh Kumar Jain, J.(Oral)

Petitioner No.1 is a practicing advocate of more than 76 years of age having been born on 30.09.1937. Petitioner No.2 is his wife. Both of them are residing in their house No.197-B, Ranjit Avenue, Amritsar. It is alleged that petitioner No.2 had purchased the land and constructed the house by the joint funds of petitioners No.1 & 2. The petitioners filed a writ petition bearing CWP No.25112 of 2013 in this regard seeking a direction to the official respondents arrayed therein, to shift respondents No.5 & 6, who are the son and daughter-in-law of the petitioners, from their house and also to give them police protection. The said writ petition was disposed of on 15.11.2013 with liberty to the petitioners to approach the Deputy Commissioner, Amritsar by moving an appropriate representation/legal notice by raising their grievances and he was directed to decide the same as early as possible within a period of one month. Accordingly, the petitioners filed an application under Section 22 of The Maintenance

and Welfare of Parents and Senior Citizens Act 2007 (in short 'the Act') on 29.11.2013. The Deputy Commissioner, Amritsar disposed of the application of the petitioners, inter alia, on the ground that the Government of Punjab has not notified the action plan in terms of Rule 23 of the Punjab Maintenance and Welfare of Parents and Senior Citizens Rules, 2012. The petitioners, however, were relegated to their remedy to file a civil suit in Civil Court for the purpose of vacation of their property from respondents No.5 & 6. Aggrieved against the order dated 31.01.2014, the present petition has been filed.

At the very outset, learned counsel for the petitioners has referred to the action plan, which has been notified vide notification No.G.SR.58/C.A.56/2007/S.32/2012 dated 17.10.2012 by the Punjab Government, Department of Social Security, (Disabilites Branch). The said notification has been issued and confirmed and is within Section 22(2) of the Act and as per prescribed Rules. In the said action plan, the procedure for eviction from residential building has been provided.

Learned counsel for the petitioner has also relied upon a judgment of this Court rendered in **CWP No.22405 of 2015** titled as **Manjit Singh vs. Distt. Magistrate-cum-Deputy Commissioner, Karnal & ors.**, decided on 30.10.2015, which is though pertaining to State of Haryana but it has been held therein that the Deputy Commissioner has the power to pass an order for vacation on an application filed by the senior citizen/parent of the unauthorised occupation of his property/residential building.

Since Deputy Commissioner, Amritsar in his impugned order dated 31.01.2014 had not taken any decision on merit and has dismissed the application rather relegated the petitioners to Civil Court to file a civil suit for vacation/possession, was of the view that though

Rule 23 of the 2012 Rules provides that action plan for protection of life and property of senior citizens shall be notified by the State Government within a period of six months from the date of publication of these rules in the official gazette and yet no action plan for the said purpose was notified by the State of Punjab.

Since the action plan has been notified during the pendency of this petition, therefore, this petition is hereby allowed, setting aside the order of the Deputy Commissioner, Amritsar dated 31.01.2014, and the matter is remanded back to him to decide the same on merits keeping in view the action plan notified by the State of Punjab as referred to above.

Parties are directed to appear before the Deputy Commissioner, Amritsar on 01.12.2015.

Since this matter pertains to an application filed by senior citizen, who is already 76 years of age, therefore, Deputy Commissioner, Amritsar is directed to decide the application filed by the petitioners under Section 22 of the Act, within a period of three months from the date of appearance. The petitioners may also file an application before Deputy Commissioner for the protection of their life and liberty. If such an application is filed by the petitioners, the same shall be decided within a period of one week. It is needless to mention that respondents No.5 & 6 shall have the liberty to raise all the pleas possible under the law.

17.11.2015
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(Rakesh Kumar Jain)
Judge