

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.24969 of 2016
Date of decision:3.12.2016**

Darshan Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Piyush Khanna, Advocate for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 20.9.2016 (Annexure P-1) passed by the District Magistrate, Patiala, allowing the complaint of respondent No.3 under The Maintenance and Welfare of Parents & Senior Citizens Act, 2007 (for short 'the Act'), directing the petitioners to vacate the house within 30 days, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned order.

Heard learned counsel for the petitioner.

It is a matter of record that respondent No.3 (Shri Gurnam Singh) is father of petitioner No.1. Respondent No.3 is an old man of 84 years and is paralyzed. It is also not in dispute that respondent No.3 transferred a residential house in the name of his son-petitioner No.1 herein vide Transfer Deed No. 16447 dated 31.1.2013. As per the allegation levelled by respondent No.3 in his complaint (Annexure P-2), petitioner No.1 started showing his colours immediately after transfer of the residential house in his name.

Respondent No.3 has stated a very sorry state of affairs in his complaint (Annexure P-2). The gist of the complaint, made by respondent No.3 against the petitioners, was that respondent No.3 was treated by the petitioners in such a bad manner that his living was made miserable, in the eve of his life and that too at the hands of his own son, daughter-in-law and grandson. He was betrayed by his own kith and kin, leaving him in the lurch.

Having been left with no other option, respondent No.3 approached the learned District Magistrate, Patiala, by way of his complaint (Annexure P-2), moved against the petitioners. After hearing both the parties and going through the material brought on record, the learned District Magistrate, Patiala, directed the petitioners to vacate the residential house owned by respondent No.3 and to hand over vacant possession of the house to respondent No.3, within a period of 30 days.

The operative part of the impugned order passed by respondent No.2, which deserves to be noticed here, reads as under:-

“Both the parties were heard and complaint has been inquired after which it has been found that the complainant is aged and paralyzed. He is in need to be looked after but the respondent party taking advantage of he being old and paralyzed misbehaving with him. Regarding this, the Punjab and Haryana High Court in CWP No.24508/2015 in the case of Gurpreet Singh V. State of Punjab, the following has been ordered:-

Maintenance and Welfare of Parents and Senior Citizen Act 2007(Chapter V) Section 22, 27 and 32-Punjab Maintenance and Welfare of Parents and Senior Citizen Rules 2012, Rule 23 and 22-House owned by Senior Citizen-A portion of house occupied by his son-Son is licensee of his thater-on complaint of father, District

Magistrate has power to order eviction of son:-

- (i) District Magistrate is competent authority to take steps for protection of life and property of the senior citizen.*
- (ii) Jurisdiction of the Civil Court is barred in respect of all matter falling within the jurisdiction of the Act in terms of Section 27.*
- (iii) Summary exercise of the jurisdiction by District Magistrate is without prejudice to the rights of the parties which may be determined by the Civil Court in accordance with law.*

Considering the old age of the complainant, it is found that the respondents are to be evicted from his house. Considering the present circumstances, Tehsildar Patiala is directed to give 30 days' time to respondent to vacate the house and to give possession to the complainant. So that the old complainant may spend his last time in peace. Order is pronounced. File after necessary action be filed in record room."

During the course of hearing, learned counsel for the petitioners could not advance any meaningful argument, except some technical issues, which are hardly of any consequence. Thrust of his argument was that conduct of respondent No.3 himself was not good, who used to create problems for the petitioners. In fact, petitioners have not been found to be bonafide litigants. Not only the petitioners have been found shirking from their responsibility and duty to pay due regard to their elder and maintain him properly, but they are also trying to prove themselves to be super human beings, levelling counter allegations of misbehaviour against respondent No.3. This attempt on behalf of the petitioners has been found totally uncalled for and unwarranted, which is liable to be deprecated, at the hands of this Court.

It is the settled proposition of law that the petitioners would be permitted to live in the residential house, owned by respondent No.3 only till he wants the petitioners to live. Petitioners would live in the residential house, owned by respondent No.3, only as licensees. The moment petitioners lost the faith of respondent No.3, he would be at liberty to ask the petitioners to vacate his residential house. In such a situation, petitioners cannot live, as a matter of right, in the house owned by respondent No.3. Any contrary finding would defeat the very aims and objects of the Act.

The above-said view taken by this Court also finds support from two Division Bench judgments of this Court in **Justice Shanti Sarup Dewan, Chief Justice (Retd.) and another Vs. Union Territory, Chandigarh and others, 2014 (5) RCR (Civil) 656** and the case of **Gurpreet Singh Vs. State of Punjab and others**, bearing CWP No. 24508 of 2015 decided on 1.12.2015. Under identical fact situation in **Gurpreet Singh's** case (supra), a Division Bench of this Court, while interpreting the numerous provisions of the Act, held that the District Magistrate is fully competent to entertain and decide a complaint made by a senior citizen. That is what has been done by the learned District Magistrate in the present case as well.

The impugned order passed by the learned District Magistrate has not been found suffering from any patent illegality or perversity. Further, no prejudice of any kind, whatsoever, has been shown, which might have been caused to the petitioners, by passing the impugned order, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

3.12.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No