

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

**CM-9106-CWP-2016 IN/AND
CWP No.2929 of 2016
Date of decision:19.8.2016**

Sanjiv Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Abhilaksh Grover, Advocate
for the petitioner.

Ms. Monica Chhiber Sharma, DAG, Punjab.

Mr. S.P. Arora, Advocate
for respondent No.3.

RAMESHWAR SINGH MALIK, J. (Oral)

On joint request made by learned counsel for the parties, date of hearing is preponed from 19.12.2016 to today. The case is taken up for final disposal with the consent of learned counsels.

Instant writ petition is directed against order dated 06.01.2016 (Annexure P-7), whereby the Additional District Magistrate, S.A.S. Nagar, Mohali, in compliance of the order dated 24.12.2015 passed by this Court in Civil Writ Petition No.27195 of 2015, passed the impugned order, directing the petitioner to vacate the house, owned by respondent No.3, under the relevant provisions of law contained in Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short - 'the Act, 2007').

Notice of motion was issued and in compliance thereof, written statement has been filed on behalf of contesting respondent No.3.

Heard learned counsel for the parties.

It is a matter of record that respondent No.3 is owner of the house in question. Petitioner, being son of respondent No.3, started living on first floor and second floor of the house in question, as licensee. However, respondent No.3, being a senior citizen of about 74 years, was forced to move an appropriate application before the District Magistrate under the Act, seeking vacation of his house. It is also not in dispute that some other litigations are pending between the parties, including civil as well as criminal litigation.

A bare perusal of the impugned order dated 06.01.2016 (Annexure P-7) passed by the competent authority i.e. respondent No.2, would show that each and every relevant aspect of the matter was considered and appreciated, in the correct perspective, before passing the impugned order. A report was sought from Sub Divisional Magistrate, SAS Nagar (Mohali), who informed that respondent No.3 was the absolute owner of house in question. Statement of both the parties were recorded and after considering the totality of facts and circumstances of the case, impugned order came to be passed. Since the impugned order has not been found suffering from any patent illegality or perversity, the same deserves to be upheld.

The findings recorded by respondent No.2 have been found duly supported by sound reasons. Relevant operative part of the impugned order, which deserves to be noticed here, reads as under:-

“The Sub-Divisional magistrate, S.A.S. Nagar sent the report regarding ownership of house to the effect that a report

has been procured about the matter from Estate Officer, GMADA, Mohali who have informed that as per letter No.EO/GMADA/2015/44298, Dated 21.10.2015, the ownership of the house is in the name of Shri Sukhdev Kaushal son of Nityanand, which stands in his name vide their letter No.21126, dated 15.9.2003. The respondents filed an application dated 9.12.2015 in this court in which they have submitted that the case is fixed for the reply of respondents and many complaints have also been filed to the police by the complainant against the respondents and a compromise has also been effected between both the parties at Police Reconciliation Centre, Phase-11, Mohali, but he has not procured the copies of the same from there, so he wants to summon the record. Hence, Shri Narinder Sood, A.S.I. In Police Station Phase-11, be summoned, who is in possession of the record.

The application of the complainant, documents placed on file, as per the order dated 24.12.2015 passed by the Hon'ble Punjab and Haryana High Court in writ petition no.27195 of 2015, Statements of the complainant and respondents were considered very carefully and from the bare perusal of the same it has been found that as per the report of Sub Divisional Magistrate, S.A.S. Nagar Sh. Sukhdev Kaushal son of Nitya Nand, is the owner of House No.453, Phase-11, District S.A.S. Nagar and he is an old man of 74 years and has

been harassed by the respondents. This Court has tried to compromise the matter between the parties, but they have refused to enter into any compromise. Hence, keeping in view the abovesaid situation and while disposing of the complaint and respondents are hereby ordered to vacate the House No.453, Phase-11, District S.A.S. Nagar under Notification no.10/20/2014-D.C./353259/1, Dated 27.11.2014 and under Senior Citizen Act.”

This is yet another unfortunate matter, which discloses how the parents and senior citizens are being harassed by none else, but their own kith and kin. Instead of showing any respect, the parents are being put to wholly unwarranted harassment, at the hands of their sons and that too only for the sake of propriety. In fact, unending lust for property seems to be one of the main reasons that this kind of litigation is increasing. Efforts were made to settle the matter amicably, but that also failed.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by respondent No.2. Further, since the ownership of respondent No.3 has been found undisputed, no prejudice of any kind, whatsoever, has been pointed out, which might have been caused to the petitioner, while passing the impugned order and the same deserves to be upheld for this reason also.

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 impugned order has not been found suffering from any patent illegality or perversity. The instant writ petition, having been found wholly misconceived, bereft of merit and without any substance, 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.

19.8.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No