

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 3354 of 2016 (O&M)
Date of Decision: March 29, 2016

Kulbhushan Monga and another

... Petitioners

Versus

*Tribunal under Maintenance and Welfare of Parents and Senior Citizen
through its Presiding Officer and another*

... Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 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. Vikram Singh, Advocate,
for the petitioners.

Mr. Sanjay Bansal, Sr. Advocate with
Mr. Rohit Kaura, Advocate,
for the caveator/respondent no.2.

Paramjeet Singh Dhaliwal, J.

CM-3769-CWP-2016

Having heard learned counsel for the petitioners and for the reasons recorded in the civil misc. application, the same is allowed. District Magistrate, Panchkula is impleaded as respondent no.3. Amended memo of parties is taken on record.

CWP No. 3354 of 2016

Civil Misc. application for placing on record written statement on behalf of respondent no.2 filed in Court today, is allowed and the written

statement is taken on record. Registry to register and assign number to the application.

This is an avoidable and unfortunate litigation between father, son and daughter-in-law. Challenge in the instant writ petition is to order dated 20.08.2016 (Annexure P/4) passed by respondent no.1, as well as, order dated 03.11.2015 (Annexure P/7) passed by Appellate Tribunal-cum-Deputy Commissioner, Panchkula.

Brief facts of the case are that respondent no. 2 – Gulzar Singh Monga filed an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the “Act”) for ejectment and dispossession of the petitioners from first floor of House No. 602, Sector 11, Panchkula to the effect that he is about 85 years of age and owner of House No. 602, Sector 11, Panchkula, which is his self acquired property. After his retirement, he had shifted in the said house. At that relevant point of time, petitioners were residing at Mohali on rental basis. The house in question was allotted to respondent no.2 by Housing Board Haryana on 14.12.1982. After leaving the government accommodation, respondent no.2 decided to construct and did so in the year 1990. The petitioners also shifted on first floor forcibly and made false promises to respondent no.2 and started residing on first floor of the house in question. Thereafter, the petitioners did not allow respondent no.2 to come on the first floor. Respondent no.2 disowned his son i.e. petitioner no.1 and his family from all his moveable and immoveable properties on 23.10.2012. Vide order 20.02.2016 (Annexure P/4), the Presiding Officer-cum-Sub Divisional Officer, Maintenance Tribunal, Panchkula has directed the petitioners to vacate and hand over the possession of the house in

question within 30 days. Against that order (Annexure P/4), petitioners along with their daughter and son preferred an appeal before the Appellate Tribunal-cum-Deputy Commissioner, Panchkula, which has been dismissed vide order dated 03.11.2015 (Annexure P/7). Hence, this writ petition.

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

Learned counsel for the petitioners vehemently contended that the impugned orders (Annexures P/4 and P/7) are sketchy and cryptic and are not sustainable in the eyes of law. The matter is already before the civil court. Petitioners have contributed towards the construction of the house and have right to stay in the said house.

Admittedly, respondent no.2-complainant is a senior citizen and is owner of House No. 602, Sector 11, Panchkula. In his complaint, respondent no.2 has specifically alleged that he is senior citizen and resident of House No. 602, Ground Floor, Sector 11, Panchkula and is an absolute owner. It is a self acquired property. In the year 1990, the petitioners shifted on first floor forcibly. The petitioners are allegedly harassing the senior citizen. The Tribunal, after considering the evidence, has rightly passed the order directing the petitioners to vacate the house in question. Said findings are also affirmed by the Appellate Tribunal.

The petitioners being son and daughter-in-law are only licencees. This issue has already been elaborately dealt with by this Court in **Manmohan Singh vs. Union Territory, Chandigarh and others, 2016(1) RCR (Civil) 838.** A Division Bench of this Court in **Gurpreet Singh vs. State of Punjab and others, 2016(1) RCR (Civil) 324** has also considered the same issue. It is categorically held that status of the son and daughter-in-

law is only that of a licensee. Although, Civil Court has granted temporary injunction in favour of the petitioners but the same has been vacated by the learned Additional District Judge, Panchkula vide order dated 10.03.2016 (Annexure R-2/3). Jurisdiction of the Civil Court is barred in respect of all matters falling within the jurisdiction of the Act in terms of Section 27 thereof. Since the protection of life and property falls within the jurisdiction of the District Magistrate, therefore, the District Magistrate is competent authority to take steps for the protection of life and property of the senior citizen and has rightly passed the impugned order. The matter in issue in the present case is squarely covered by **Manmohan Singh's case (supra)** and **Gurpreet Singh's case (supra)**.

In view of above, I do not find any illegality or perversity in the impugned orders. Since the parties are already before civil court, their respective claims and rights will be adjudicated in those proceedings.

Dismissed. However, the petitioners will be at liberty to avail the alternative remedy in accordance with law.

March 29, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge