

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

CWP No.10568 of 2017

Date of Decision.17.05.2017

Sh. Sanjeev Sodhi and another

.....Petitioners

Vs

State of UT Chandigarh and another

.....Respondents

Present: Mr. Rahul Garg, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioners-Sanjeev Sodhi and his wife Payal Sodhi are son and daughter-in-law of Brij Lal Sodhi, who moved an application under the provisions of Maintenance & Welfare of Parents and Senior Citizens Act, 2007 for vacation of House No.8/10, Bank Colony, Manimajra, U.T., Chandigarh and to pay maintenance/profit @₹40,000/- whereby vide order dated 20.04.2017, the District Magistrate ordered to vacate the aforementioned house within 30 days from the date of issuance of the impugned order. It is against this order, the petitioners are before this Court.

Mr. Rahul Garg, learned counsel appearing on behalf of the petitioners submits that the civil suit qua partition of this property and another property is already pending adjudication in the District Court at Chandigarh. Unless and until, the suit is not decided, much less, title of Brij Lal Sodhi, the application was not maintainable. In fact, Brij Lal Sodhi had become owner of the property from the sale proceeds of the property in the name of grandmother, alienated during her life time and therefore, the petitioner No.1 would have a right by birth in the property, being ancestral.

The father is already residing in a separate accommodation and therefore, the question of facing difficulty and ordeal of the petitioner and his wife would not be in existence. All these issues were duly raised and various documents attached with this writ petition i.e. copy of the civil suit (Annexure P-2), much less, property documents (Annexure P-6 colly) had also been placed on record but the same were not taken into consideration, thus, urges this Court for setting aside the order under challenge.

I have heard learned counsel for the petitioner and appraised the paper book. The status of the children in the house owned by the parents, so long as there is no adjudication in the suit pending qua title, would be of a licensee. I need not delve upon the merits and demerits of the matter pending adjudication as it would seriously prejudice or take away the right of the parties. The parties shall be at liberty to lead evidence in respect of pending suit but the fact remains that on adjudication of the application moved under the 2007 Act, the daughter-in-law, much less, the son cannot stay in the accommodation in case the father does not want them to stay. This view of mine is derived from the ratio decidendi culled out from the judgment delivered by Division Bench of this Court in *CWP No.24508 of 2015 in Gurpreet Singh Vs. State of Punjab and others, decided on 01.12.2015; S.R. Batra and another Vs. Smt. Taruna Batra, 2007(1) RCR (Civil) 378 and Justice Shanti Sarup Dewan, Chief Justice (Retired) & Anr. Vs. Union Territory, Chandigarh & Ors., 2014 (5) RCR (Civil) 656.*

The petitioner has already been ordered to be evicted within a period of 30 days from the date of receipt of copy of the order dated 20.04.2017.

In view of the observations made above, I do not intend to

differ with the finding arrived at by the District Magistrate, as on today the ownership of the property is of private respondent-Brij Lal Sodhi. The order under challenge passed by the District Magistrate cannot be said to be vitiated in law, much less, no ground for interference is made out. Resultantly, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

May 17, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No