

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.16091 of 2016 (O&M)
Date of decision: July 17, 2017

Mamta ...Petitioner

Versus

Union Territory, Chandigarh & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Parminder Singh, Advocate for the petitioner.
Mr. Vikas Bali, Advocate for respondents No.1 & 2.
Mr. P.C. Yadav, Advocate for respondents No.3 & 4.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 21.7.2016, passed by authority under the Senior Citizen Act, whereby application of respondents-parents was accepted and petitioner and her husband Jatinder Kumar were directed to vacate the house in question.

Brief factual matrix of the case is that the applicants/respondents No.3 & 4, who are senior citizens within the meaning of the Act, preferred an application before the District Magistrate, Chandigarh seeking eviction of the respondents. They alleged that their children had failed to provide basic amenities and physical needs to the applicants. They were original allottees of the house in question and were in possession and had been living there for last 22 years. Marriage of their son namely, Jatinder Kumar was solemnized with one Mamta. The couple thereafter, shifted to Shimla. In 2010, they returned and started staying with the

parents in the house. After few days, behaviour of the son and daughter-in-law became rude and quarrelsome. Due to this, the parents disowned them from their properties and made a publication in the news paper in December, 2010. The couple thereafter left the house, but in October, 2015 they forcibly entered the house along with mother of daughter-in-law Mamta. As the applicants raised objection, they were beaten up. A complaint was also made to the police, but they were told to approach the competent court. A complaint was also made to Senior Superintendent of Police, Chandigarh on 1.12.2015 but to no avail. Meanwhile, parents continued to be harassed by their son and daughter-in-law. Mamta (petitioner herein) in connivance with her mother also lodged police complaints against the parents. Ultimately, applicants moved instant application seeking eviction of respondents from the property (House No.2235/2, Sector 45-C, Chandigarh). Son Jatinder Kumar and Mamta filed their separate written statement. They denied the allegations levelled in the complaint. Respondent Mamta additionally submitted that she was being subjected to cruelty due to demand of dowry. Besides, she had a minor child, aged five years, thus, she may not be thrown out of the house. She had to call her mother Anguri Devi to take care of her and her son. The authority under the Act considered rival pleas and sought a police report. The police reported that respondent No.2 was greedy and quarrelsome in nature. She wanted to grab the house. She also had a matrimonial dispute with her husband. The authority also afforded opportunity of hearing to the applicants and respondents No.1 & 2. It was found that the father namely, Duni Chand was absolute undisputed owner of House No.2235/2, Sector

45-C, Chandigarh. Applicants stated before the authority that the couple along with mother-in-law had made their life miserable. They also wanted to grab their property. After considering entire material on record, the District Magistrate came to the conclusion that applicants were entitled to the protection prayed for. He also found that respondent Jatinder Kumar and his wife Mamta were harassing their parents in their old age. He, thus, directed that they be evicted from the property within a fortnight. Station House Officer, Police Station South U.T., Chandigarh was also directed to ensure safety to life and property of the applicants. He would also ensure that house is vacated by the couple (petitioner) within the stipulated period and physical possession handed over to the parents.

I find no infirmity with the order. During the course of arguments, it was urged before the court that petitioner herself was a victim at the hands of her in-laws. She, thus, needed to be protected. Reliance was placed on judgment reported as ***Major Harmohinder Singh (Retd.) Vs. State of Punjab and others, (2014-4) P.L.R. 488***, to contend that right of a family for securing protection under the Protection of Women against Domestic Violence Act, 2005, cannot be defeated. Women could not be denied a right to shelter to ensure her dignified living. On the other hand, detailed reply has been filed on behalf of respondent parents, who have enumerated in detail the harassment being meted out to them at the hands of their son and daughter-in-law.

In my view, judgment in *Major Marmohinder Singh's case (supra)* is not applicable to the facts of the instant case. It is evident that son of the applicants along with his wife were initially living in the same

house. They thereafter shifted to Shimla. In 2010, they entered the house along with mother-in-law and minor child. Whole tale of woe of the old parents started thereafter. They were mentally and physically harassed. They also made complaints to police but got no help. Plea that petitioner, who is daughter-in-law, needs protection in view of provisions of Domestic Violence Act, does not impress. Conclusion is inescapable that she is hand in glove with her husband and her mother to harass the old parents (applicants) with a view to grab the property, of which father Duni Chand is the exclusive owner. While allowing the application of the parents, the District Magistrate even directed the SHO to protect life, liberty and property of the applicants. It appears, same was necessitated in the peculiar circumstances of the case. Besides, it is not a case where petitioner has no shelter. Her mother Anguri Devi also joined her in her matrimonial home. According to stand of the applicants, she has her own house in Karnal. The petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

July 17, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No