

CWP No.17520 of 2017

[1]

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

**CWP No.17520 of 2017
Date of decision:21.08.2017**

Gian Singh

...Petitioner

Versus

Additional Deputy Commissioner and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Abhishek Singla, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order of the Additional Deputy Commissioner-cum-Additional District Magistrate, SAS Nagar, Mohali dated 06.06.2017, by which application filed by the petitioner under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the "Act") against his widowed daughter-in-law (respondent no.2 herein) has been dismissed.

In brief, respondent no.2 along with her minor children filed a Civil Suit No.27/2013 for permanent injunction to restrain the petitioner and others from interfering into their peaceful possession and dispossessing them forcibly and from alienating the House No.473, Ward No.5, Sector-9, near Royal Palace, Tehsil Kharar, District Mohali. The said suit was partly decreed as it was directed that the petitioner would not dispossess respondent no.2 from the house in question forcibly and illegally and would also not interfere in her peaceful possession.

It is not disputed that, thereafter, the petitioner had also filed a Civil Suit for possession of the property in question against respondent no.2, in the Court of Civil Judge (Junior Division), Kharar, which is pending adjudication. During the pendency of the said suit for possession, the petitioner filed the application under Section 22 of the Act. The said application has been dismissed by the Competent Authority with the following observations:-

“On perusal of the application of the complainant and documents on file and reply of the respondent, statement of witnesses and report of Sub Divisional Magistrate, Kharar according to which complainant is owner of 11M and 7M in village Santemajra. Complainant is a senior citizen of 65 years. This application has been filed by the complainant under Senior Citizen Act to evict his daughter in law Pardeep Kaur from his House No.473, Ward No.5, Santemajra Colony, Tehsil Kharar. Therefore, keeping in view the aforesaid circumstances, after perusing the application of the applicant and documents produced by the respondent and after hearing the parties, it is found that son of the petitioner namely Bir Davinder had expired on 08.05.2011. Respondent Pardeep Kaur is making survival of her children by working herself. Apart from this, applicant and his wife do not reside in this house for which the application of eviction has been filed. Respondent along with her children is residing in this house. Therefore, how can she harass and humiliate the applicant. Applicant wants to get the house vacated from this daughter in law taking aid of this Court. Petitioner had filed a civil suit before the Court of Civil Judge (Jr. Division), Kharar for vacation of the house in which the Ld. Court has ordered that petitioner would not evict the respondent from the house illegally and forcibly. Apart from this complainant has sufficient source of income and is residing in his own house. Therefore, keeping the aforesaid facts in mind, this case does not come within the ambit of Senior Citizen Act. So, this application is dismissed.”

Counsel for the petitioner has though challenged the order dated

06.06.2017 but he was pertinently asked by the Court as to how the petitioner can avail another remedy of seeking possession of the house in question especially when a suit for possession for the same property is already pending.

In reply, counsel for the petitioner has submitted that the present proceedings are summary in nature and are, thus, maintainable.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that two parallel proceedings for the same cause of action cannot continue. In this regard, reference may be had to a decision of the Madras High Court rendered in the case of **Chemech Engineers Pvt. Ltd. vs. The Director of Industries and Commerce and others**, 1994 AIR (Madras) 14 and a judgment of the Supreme Court rendered in the case of **Jai Singh vs. Union of India and others**, 1977 AIR (SC) 898.

Thus, in view of the aforesaid, I do not find any merit in the present petition as the application filed by the petitioner itself was not maintainable during the pendency of the Civil Suit filed for the same cause of action, which is still pending.

With these observations, the present petition is hereby dismissed, though without any order as to costs.

August 21, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No