

CWP No.1942 of 2017
Date of decision:02.02.2017

The District Magistrate, U.T.Chandigarh and another ... Respondents

Present:- Mr. Sunil K. Chaudhary, Advocate
for the petitioners.

The petitioners are aggrieved of the impugned order dated 15.12.2016 (Annexure P-2) of the District Magistrate, Maintenance Tribunal, Chandigarh, whereby, an application moved under Sections 21 and 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “2007 Act”) seeking eviction of the respondents from House No.6124, Maloya Colony, Chandigarh has been allowed.

Mr. Sunil K. Chaudhary, learned counsel for the petitioners submits that respondent no.2 is not owner of the property, therefore, the application aforementioned was not maintainable. In fact, she is not resident of the area. She is residing in adjoining house. As far as petitioner no.2 being daughter-in-law is concerned, she can be permitted to retain the house after marriage as she came in the matrimonial house in 2011 and thus, being

share house hold, she is entitled to claim the protection.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that the maintainability of the application seeking eviction of daughter-in-law and son has already been debated upon by this Court in **CWP No.17860 of 2016 titled as Rakesh Kumar Sood vs. The District Magistrate-cum-Deputy Commissioner, Ludhiana and others pronounced on 31.01.2017.** The District Magistrate while entertaining the aforesaid application has also taken into consideration the following documents which read as under:-

- i) *photocopy of complaint made by the applicant to Police Station Maloya, Chandigarh.*
- ii) *Photocopy of DDR No.72 dated 04.06.2016.*
- iii) *Photocopy of cutting of public notice dated 11.06.2014, whereby Sh. Jaan Mohd. Husband of the applicant, debarred his son and daughter in law from his moveable as well as immovable properties*

The daughter-in-law cannot be said to have a right in the house of father-in-law/mother-in-law, who lodged a complaint against the parents of husband and caused harassment to old aged in laws. No evidence has been placed on record to belie the claim of the ownership of respondents, whereas, the definition of property under Section 2(f) of 2007 Act, prescribes any right or interest in such property, therefore, the plea of ownership is wholly misplaced. For the sake of brevity, the provisions of

Section 2(f) of 2007 Act reads thus:-

“Section 2(f) in The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

(f) property means property of any kind, whether movable or immovable, ancestral or self-acquired, tangible or intangible and includes rights or interests in such property;”

In view of the aforementioned, the present writ petition is disposed of in terms of order dated 31.01.2017 passed in CWP No.17860 of 2016 .

(AMIT RAWAL)
JUDGE

February 02, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No