

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.2127 of 2017 (O&M)

Date of decision: September 07, 2017

Gurdeep Singh & another

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.K. Chauhan, Advocate for the petitioners.

Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

Mr. Abhimanyu Kalsi, Legal Aid Counsel for respondent No.4.

Rajan Gupta, J.

Petitioners have impugned order passed by the District Magistrate, Hoshiarpur, directing eviction of the petitioners from the house in question.

Learned counsel for the petitioners has primarily urged before this court that order suffers from patent illegality. The Tribunal without affording opportunity of hearing to the petitioners, allowed the application filed by respondent No.4, who is father of petitioners. According to him, respondent No.4 had sold a shop for Rs.2,12,000/- on 28.11.2016, thus, he had sufficient means to maintain himself. The authority ignoring the fact that the house in question is ancestral property, ordered eviction of the petitioners from the same, vide impugned order dated 13.12.2016.

Plea has been opposed by counsel appearing for respondent No.4. He has submitted that his three sons had forcibly occupied the house as well as three shops of respondent No.4, who is 83 years of age. Besides, they had

been continuously harassing him.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, respondent No.4 is exclusive owner of a house bearing No.273, Phagwara Road, Hoshiarpur, where he has been living along with his old wife. Respondent No.4 had already suffered two heart attacks. He permitted his sons to live in the house with the hope that they would serve him and his wife in their old age. However, their sons started making efforts to evict the tenants in the shops, which are part of the house. These shops are only source of their livelihood. The sons also started pressurizing respondent No.4 to transfer his entire property in their name. Certain litigation was also initiated. Respondent No.4 disowned his sons from his properties by way of publication in the news paper. Ultimately, respondent No.4 filed an application before the authority under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 against his sons. He prayed that house in question be got vacated from the petitioners. Vide order dated 12.5.2016, the authority declined the prayer of the applicant for ejectment of his sons from his house, but directed them to pay Rs.1700/- per month each to their father. Aggrieved, applicant filed appeal before the District Magistrate, who vide order dated 13.12.2016 allowed the same directing the petitioners to vacate the house in question and hand over possession thereof within one month.

I find no infirmity with the order passed by the authority. It reveals that petitioners gave beating to their mother Pritam Kaur and threatened that she would be set on fire. An FIR was also lodged in this regard. The authority below has acted in accordance with the provisions of special enactment. In view of clear provisions contained in the Act, judgments cited

by the counsel are of no relevance and thus need not be referred to. There is no ground to interfere in the writ jurisdiction. Petition is without any merit and is hereby dismissed.

September 07, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No