

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

CWP No. 22057 of 2017

Date of decision :28.11.2017

Gurinder Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Parminder Singh Kanwar, Advocate for the petitioner.

RAJAN GUPTA J.

Present petition is directed against the order dated 26.07.2017 passed by Additional Deputy Commissioner-cum-Appellate Tribunal, Rupnagar allowing the application of respondent no. 4 for eviction from the premises in question. Operative part of the order reads as under:-

“After listening to both the parties and their Ld. Counsels and after perusing the records came on the file and according to the allegation leveled by the appellant and after listening to the parties in person, it has come to light that the respondent is a government Servant and no any help is being extended by the respondent to his parents. The Dwelling Unit in which the respondent is having his residence, that house was got constructed on the plot bought by the appellant himself and the same is not an ancestral property. The appellant is not willing to accommodate the respondent in his house. Besides this the appellant has also alleged that the respondent on every day, under the influence of liquor used to quarrel. They also have an apprehension of life from him. Therefore, while exercising the rights available to me in compliance of the Action Plan Notification No. 10/20/2014/DC /353259/1 dated 27.11.2014, regarding Maintenance and Welfare of Parents

and Senior Citizen Act 2007, I do hereby now is passing an Order by way of direction to the Sub Divisional Magistrate, Rupnagar and to the Deputy Superintendent of Police, Rupnagar that, in compliance of the Para No. 2 of the Action Plan Notification No. 10/20/2014/DC /353259/1 dated 27.11.2014, of the Maintenance and Welfare of Parents and Senior Citizen Act 2007, to remove the possession of the respondent Gurinder son of Rajinder Singh resident of Village bara Pind Tehsil and District Rupnagar over the residential house of the appellant within 30 days and hand over the possession of the same to the appellant. The Order was pronounced in the presence of both the parties. A copy of this order is being forwarded to the Sub Divisional Magistrate, Rupnagar and Deputy Superintendent of Police, Rupnagar regarding the proceedings for providing the possession and to the appellant and respondent for information. Order is pronounced. The File after compliance be consigned to Office Record Room.

Aforesaid order has been challenged on the ground that Tribunal has erred in allowing the application of respondent no. 4 for ejectment. According to counsel for the petitioner, order suffers from patent illegality and is unsustainable in nature. Petitioner- took the plea that half of the amount spent on the construction of the house in question was borne by him from his own earnings. Besides, the plot on which the applicant-respondent no. 4 has constructed the house, was bought after selling off the ancestral house/land. Petitioner is not entitled to eviction. Reliance has been placed on judgment reported as **Major Harmohinder Singh (Retd.) vs. State of Punjab & ors. 2017(1) RCR (Criminal) 993**. It appears that applicant-Rajinder Singh (respondent no. 4 herein) moved an application before the tribunal stating that his son namely Gurinder Singh was an addict and habitual drunkard. He was in the habit of picking up quarrels. As a

result, he had disowned him in the year 2005. He needed to get the house vacated from him as the petitioner was causing mental harassment and using abusive language. After hearing both the parties and perusing the record Additional Deputy Commissioner came to the conclusion that necessary order needed to be passed. It, thus, directed eviction of Gurinder Singh from the premises in question.

In view of above, I find no infirmity with the order. It appears that same has been passed after due consideration. Judgment in Major Harmohinder Singh's case (*supra*) is not applicable to facts of the instant case. In ***Gurpreet Singh vs. State of Punjab 2016(1) RCR (Civil) 324***, it has been held as under:-

“12. The petitioner is a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. A licence stands terminated the moment the licensor conveys a notice of termination of a licence. There is no vested right of any kind in the licensee to remain in possession of the property licensed. Admittedly, respondent No.4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respondent No.4 is required to be protected as mandated by Section 22 of the Act read with Rule 23 of the Rules and para 1 of the Action Plan. There cannot be any effective protection of property of the senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or to restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of

which the son is a licensee, such summary procedure will ensure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified.”

In view of above, petition is without any merit. Same is hereby dismissed.

November 28, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No