

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

CWP No.24708 of 2017 (O&M)
Date of decision: November 28, 2017

Sumit Kumar and another ...Petitioners

Versus

District Magistrate, Panchkula & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Bhushan Bhatia, Advocate for the petitioners.
Mr. Gaurav Jindal, Addl. Advocate General, Haryana.

Rajan Gupta, J.

Petitioners have posed a challenge to eviction order dated 18.09.2017, passed by District Magistrate, Panchkula.

Learned counsel for the petitioners has urged before this court that order suffers from patent illegality. According to him, the order passed by the District Magistrate is without jurisdiction and violative of the Act. Thus, same deserves to be set-aside.

On 01.11.2017, a copy of the petition was handed over to the State counsel for assisting the court. A short reply by way of affidavit of Mukul Kumar, Addl. Deputy Commissioner, Panchkula has also been filed. The State counsel has opposed the plea. According to him, the authority after affording opportunities of hearing to the parties, passed the order directing petitioners to vacate the flat in question.

I have heard learned counsel for the parties and given careful

thought to the facts of the case.

Brief factual matrix of the case is that respondent No.2 Satbir Singh, father of petitioner No.1 is owner of Flat No.404, Haryana Vidhan Sabha Group Housing Society, Sector 24, Panchkula and is a retired government servant. Petitioner No.1, who is posted in Haryana Vidhan Sabha, was allowed by his father i.e. respondent No.2 to live in a room of the aforesaid flat. Other two rooms were given on rent. Stand of the father is that petitioners in order to grab the said property threatened his parents and his younger brother with dire consequences. He also gave threats to the tenant and got the flat vacated. One Inspector Rajbir Singh, Crime Branch, Panchkula also threatened them to face with dire consequences. Respondent No.2 also made a complaint to the Deputy Commissioner of Police, Panchkula in this regard. However, petitioners broke open the locks of the house and occupied the entire premises forcibly. Ultimately, respondent No.2 filed a petition under the Haryana Maintenance of Parents & Senior Citizen Rules, 2009 framed under Section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioners for their eviction from house in question. Vide order dated 18.09.2017, the District Magistrate, Panchkula, directed petitioners to vacate the aforesaid flat within 30 days from the date of order. The authority also observed that in case petitioners did not comply with the direction, the Sub Divisional Magistrate would ensure eviction through police help. Aggrieved, petitioners have filed instant writ petition. I find no infirmity with the order. It appears, same was necessitated in the peculiar circumstances of the case. The authority below has acted in accordance with the provisions of special

enactment and with a view to achieve objectives of the Act. In judgment reported as *Gurpreet Singh vs. State of Punjab and others, 2016 (1) R.C.R. (Civil) 324*, a Division Bench of this court held as under:-

“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, I am of the considered view that Tribunal has

not erred in allowing the petition preferred by respondent No.2 father. The pleas raised before this court are without any merit. Same are hereby rejected. Petition is dismissed.

(RAJAN GUPTA)
JUDGE

November 28, 2017
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No