

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

CWP No.7242 of 2016
Date of decision : 12.05.2017

Balwinder Singh @ Surinder Singh

...Petitioner

Versus

District Magistrate, Estate Officer and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

Ms. Suman Devi Saxena, Advocate for
Ms. Deepali Puri, Advocate for respondent No.1.

Ms. Kulwant Kaur, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the order dated 23.03.2016 rendered by the District Magistrate, U.T. Chandigarh in a petition filed by father-Jit Singh seeking ejectment under the Maintenance of Parents and Senior Citizens Act and Rules 2007 of the House No.1450/18, First Floor, Sector 29-B, Chandigarh.

Mr. Ashok Bhardwaj, learned counsel appearing on behalf of petitioner submits that father of the petitioner at the time of institution of the petition was not residing and he has already sold the property to someone else being occupation of tenant. Though some portion was in possession of the petitioner and, therefore, the aforementioned provisions of the Act, has

been misused. The report of the Naib Tehsildar-cum-Executive Magistrate (Annexure P-5) has not been looked into by the Deputy Commissioner.

He submits that as per the aforementioned statement, petitioner does not reside there and he had been called upon to show the availability but due to ill health, he did not come present whereas it has been brought to the notice that the statement of the petitioner's wife namely Sona has been recorded whereby she stated that her father-in-law i.e. father of the petitioner is residing at House No.88, Zirakpur for the last 8 years with his daughter. All these factors were thus required to be looked into and pondered by the Deputy Commissioner for entertaining the application.

On the contrary, Ms. Kulwant Kaur, Advocate for respondent No.2 submits that the portion of the house was occupied by the petitioner. It is in this backdrop of the matter, petition was filed.

She further submits that possession of the portion in occupation of the petitioner and his family have been taken in pursuance to the order passed by the District Magistrate. This fact has not been denied by Mr. Bhardwaj, Advocate.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submission of Mr. Bhardwaj, Advocate particularly when the possession has been taken over. If at all, the petitioner has grievance with regard to the title and other aspect, he is at liberty to seek remedy in Civil Court. Naib Tehsildar had recorded the statement of his wife who is stated to reside in the house and factum of her father-in-law i.e. father of the petitioner residing in house No.88, Zirakpur with the daughter has not been denied. In

my view, the petitioner cannot agitate the claim qua the ownership of the father in the petition filed under Section 22 of 2007 Act.

The status of the children in the house in the absence of any other evidence on record or filing of the suit as a temporary measures would be of licensee. This view of mine is reiterated from the judgment rendered by Hon'ble Division Bench of this Court in *Gurpreet Singh Vs. State of Punjab and others, 2016(1) RCR (Civil) 324*.

I do not intend to differ with the findings rendered by the District Magistrate, much less, no ground for interference is made out.

Accordingly, present writ petition stands dismissed.

12.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No