

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

CWP No. 29555 of 2017

Date of Decision: 21.12.2017

JAGJIT KAUR

....Petitioner

V/s.

DEPUTY COMMISSIONER, PATIALA AND OTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Ms. Geeta Sharma, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed for seeking a direction to the respondents to hand over the vacant possession of the house in question in pursuance to the order dated 13.07.2017 passed by the Maintenance Tribunal-cum-Sub Divisional Magistrate, Patiala (hereinafter referred to as 'the Tribunal') in terms of the provisions of the Maintenance and Welfare of Parents Act, 2007 (hereinafter referred to as 'the Act').

In short, the petitioner who is a widow, filed an application under Section 23 of the Act against her nephew/respondent No. 4 in whose favour she had executed a gift deed No. 3658 dated 22.07.2014 of the house in question. Since, her nephew stopped serving the petitioner, therefore, the Tribunal came to the conclusion that the gift deed deserves to be set aside in terms of Section 23 of the Act.

The relevant extract of the order passed by the Tribunal reads as under:-

“Hence, petition of the petitioner is allowed and under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 Gift Deed No. 3658 dated 22.07.2014 of House No. 84-C, Model Town, Patiala executed by petitioner in favour of respondent is hereby cancelled.”

Now, the petitioner is asking for possession of the property in question in which her nephew/respondent No. 4 is in occupation. In this regard, the petitioner had made various representations to the Deputy Commissioner and Senior Superintendent of Police concerned but so far no action has been taken.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that the present petition is not maintainable as no direction can be issued to direct official respondents to get the residential house of the petitioner vacated from respondent No. 4. Earlier, the petitioner had lost her right of the ownership of the property in question because of the gift deed executed by her in favour of the respondent No. 4 which she regained in view of the order dated 13.07.2017 passed by the Tribunal by which the gift deed was cancelled.

Now, since the petitioner has become the owner, therefore, the only way out for her to seek eviction of the unauthorized occupant/respondent No. 4 is by filing an application in terms of Section 22 of the Act before the Deputy Commissioner.

With these observations, the petition is hereby disposed of.

December 21, 2017

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

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