

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

CWP No.29821 of 2017 (O&M)
Date of decision: December 22, 2017

Rajesh Kumar

...Petitioner

Versus

Deputy Commissioner-cum-District
Magistrate, Ludhiana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. L.M. Gulati, Advocate for the petitioner.

Rajan Gupta, J.

Present petition is directed against the order dated 29.9.2017, passed by District Magistrate, Ludhiana, whereby petitioner has been directed to hand over vacant possession of the property in question to his father i.e. respondent No.2 Mulakh Raj within one month.

Learned counsel for the petitioner has urged before this court that order suffers from patent illegality. According to him, since issue of ownership of the property in question is pending adjudication before the civil court, the petitioner cannot be evicted from the same. Moreover, the civil court has directed to maintain status quo with regard to alienation and possession over the property in question.

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

Brief factual matrix of the case is that father of petitioner i.e. respondent No.2 Mulakh Raj, who is about 80 years of age, filed a

complaint against his sons i.e. petitioner and grandsons Khushal and Rohit before Sub Divisional Magistrate, Ludhiana (East) praying that his shop be got vacated. Petitioner was making efforts to grab his property. The District Magistrate, Ludhiana directed the petitioner to hand over vacant possession of property in question to respondent No.1 within one month from the date of order. Aggrieved, petitioner has filed instant writ petition. The authority below directed eviction as petitioner alleged before the authority that he was being harassed by his son and grand sons. They had instituted civil cases against him with a view to divest him of his property. He being a heart patient and hard of hearing, was living at mercy of his daughter and her children. I find no infirmity with the order passed by the authority below. As regards pendency of civil proceedings, Section 27 of the Act would be attracted. Authority has acted in consonance with the provisions of the special enactment and with a view to achieves thereof. 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:-

“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, I am of the considered view that the pleas raised before this court are without any merit. Same are hereby rejected. Petition is dismissed.

(RAJAN GUPTA)
JUDGE

December 22, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No