

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

CWP No.29891 of 2017 (O&M)
Date of decision: December 22, 2017

Shindo Devi ...Petitioner

Versus

District Magistrate, Jalandhar & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vijay Rana, Advocate for the petitioner.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 29.11.2017, passed by authority under the Senior Citizen Act, whereby application of respondent No.2 was accepted and petitioner has been directed to vacate the property in question.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. Thus, same deserves to be set-aside. He has relied upon judgment in *Major Harmohinder Singh (Retd.) vs. State of Punjab and others, 2017 (1) R.C.R. (Criminal) 993*.

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 the applicant/respondent No.2 Sheeni Devi, who is senior citizen within the meaning of the Act, preferred an application before the District Magistrate, Jalandhar seeking eviction of the petitioner from House No.NB-324, Neevi Abadi, Mohalla Santokhpura, District Jalandhar. The application was sent to Sub Divisional

Magistrate, Jalandhar-1 for report as per provisions of the Act. According to report, out of 05 Marlas land, the petitioner had already sold 4½ Marlas. Remaining 0.5 Marlas is in the name of respondent No.2. Petitioner compelled respondent No.2 to transfer this small part of property also in her name. After considering entire material on record, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioner to vacate the property in question within thirty days. The authority below directed eviction as respondent No.2 alleged before the authority that she was being harassed by her daughter.

I find no infirmity with the order. During the course of arguments reliance was placed on judgment reported as ***Major Harmohinder Singh (Retd.) Vs. State of Punjab and others, (2014-4) P.L.R. 488***, to contend that right of a family for securing protection under the Protection of Women against Domestic Violence Act, 2005, cannot be defeated. Women could not be denied a right to shelter to ensure her dignified living.

In my view, judgment in *Major Harmohinder Singh's case (supra)* is not applicable to the facts of the instant case. 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