

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

CWP No.6440 of 2017 (O&M)
Date of decision: November 21, 2017

Sanjiv Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Abhilaksh Grover, Advocate for the petitioner.
Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.
Mr. Manohar Lal, Advocate for respondent No.4.

Rajan Gupta, J.

Petitioner poses a challenge to eviction order dated 20.9.2016, passed by District Magistrate, SAS Nagar.

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 house in question is pending adjudication before the civil court, the petitioner cannot be evicted from the house in question. Moreover, the petitioner spent a huge amount on the property in question.

Plea has been opposed by counsel appearing for respondent No.4. According to him, petitioner has been harassing and maltreating his father, who is more than 75 years of age. Thus, the authority below has rightly directed Senior Superintendent of Police for taking necessary action in accordance with law.

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 father of petitioner i.e. respondent No.4 Sukhdev Kaushal, who is more than 75 years of age, filed a petition under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioner for his eviction from House No.453, Phase XI, Mohali. Vide order dated 06.01.2016, Additional Deputy Commissioner, SAS Nagar, directed petitioner to vacate the said house. Aggrieved, petitioner filed Civil Writ Petition No.2929 of 2016, which was dismissed by this court on 19.08.2016. LPA No.1754 of 2016 was also filed and same was dismissed as withdrawn on 31.01.2017 with liberty to petitioner to pursue the civil suit filed by petitioner against respondent No.4. After withdrawal of the LPA, the District Magistrate, SAS Nagar directed that premises in question be vacated. Aggrieved, petitioner filed instant writ petition. Interim stay regarding dispossession was also granted to the petitioner. Stand of respondent No.4 is that petitioner agreed to vacate the house within ten days after receipt of Rs.10.00 lacs in his bank account with a further condition that remaining amount of Rs.62.00 lacs would be paid to him after sale of upper portion of the house by respondent No.4.

It has not been possible to settle the issue amicably between the parties. It is evident that Letters Patent Appeal preferred by the petitioner against the order passed by the Single Judge, was withdrawn with liberty to pursue the civil remedy. The authority below has directed eviction of the petitioner from the premises in question on the basis of an application moved by respondent No.4. Same is with a view to implement the order dated 06.01.2016, passed by the authority earlier, the order of eviction

having attained finality. I find no infirmity with the order passed by the court 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:-

“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.4 father. The pleas raised before this court are without any merit. Same are hereby rejected. Petition is dismissed.

(RAJAN GUPTA)
JUDGE

November 21, 2017
'Rajpal'

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