

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

CWP No. 7342 of 2017

Date of decision : 22.11.2017

Dinesh Gupta

....Petitioner

V/s

Deputy Commissioner cum District Magistrate,
U.T. Chandigarh & ors.

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. H.S. Bedi, Sr. Advocate with
Mr. L.S. Chahal, Advocate for respondents no. 2 & 3.

RAJAN GUPTA J.

Petitioner has impugned order dated 23.02.2017 (Annexure P-2) passed by District Magistrate, Chandigarh whereby application filed by him under section 21 & 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been disposed of. It has been urged before this court that the order suffers from serious flaw. The authority has not decided strictly as per provisions of sections 21 & 22 of the Act. It has taken into consideration various other aspects pertaining to pendency of civil suit, compromise etc. Plea has been refuted by counsel representing respondents no. 2 & 3. According to him, order is sustainable and does not call for any interference. Both sides have relied upon various judgments in support of their contentions.

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

It appears that while deciding application filed by respondent no. 3 seeking eviction of the petitioner from the premises in question, the authority did not confine itself to the provisions of relevant section. It embarked upon a detailed discussion into the entire controversy overlooking the fact that the proceedings before it are summary in nature. Operative part of the order reads as under:-

“In view of the facts and circumstances of the case, after hearing arguments of the parties and on perusal of the documents brought on record, the undersigned is of the considered view that sometime needs to be given to both the parties to act in terms of family compromise dated 26.11.2015, statements tendered in the court of Civil Judge (Jr. Division), Chandigarh on 27.11.2015 and eventual decree passed by Hon’ble Court of Ms. Dazy Bangarh, Civil Judge, (Jr. Division), Chandigarh on 12.01.2016, whereby possession and right to stay is granted to the respondent No. 1 and his nuclear family till the time the applicant pays a sum of Rs. 6.5 crores to the respondent No. 1. Thus, six months’ time is hereby given to both the parties to settle their issues in terms of court decree dated 12.01.2016 and submissions made before Hon’ble High Court in COCP case No. 1347/2016 titled as Ankit Gupta and another vs. Dinesh Gupta and another, failing which necessary orders would be passed on merit. The application is disposed off accordingly.”

It is evident that aforesaid order is conditional. It is subject to certain payment to be made by the petitioner to respondent no. 2. Thus, it cannot be said to be in consonance with the provisions of the Act. The enactment was made to provide a simple and speedy remedy to the senior citizens and suitable mechanism for considering issues with regard to protection of life and property of senior citizens. The impugned order, thus, needs to be set-aside and remitted to same authority for decision afresh.

Ordered accordingly. The concerned authority may decide the matter afresh as per law after affording opportunity of hearing to both the parties. Necessary decision be taken at the earliest, preferably within four months. Parties shall be at liberty to refer to judgments they seek to place reliance during the course of hearing.

Allowed in these terms.

November 22, 2017
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No