

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.8419 of 2017 (O&M)
Date of decision: August 28, 2017

Anshula Rao and another

...Petitioners

Versus

District Magistrate-cum-Deputy Commissioner,
U.T. Chandigarh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sudhir Sharma, Advocate for the petitioners.

Mr. Dheeraj Chawla, Advocate for respondent No.2.

Rajan Gupta, J.

Petitioners have impugned order dated 09.03.2017 (Annexure P-7), passed by District Magistrate, U.T. Chandigarh, whereby the petitioners have been ordered to vacate 2nd floor of House No.1036, Sector 19, U.T. Chandigarh in an application filed by respondent No.2, under Sections 22 and 23 of the Maintenance of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act”).

Learned counsel for the petitioners has primarily urged before this court that order suffers from patent illegality. The authority without affording opportunity of hearing to the petitioners, allowed the application filed by respondent No.2, who is mother of petitioner No.1. According to him, petitioners have great regard for respondent No.2 and the allegations levelled against them are false and frivolous. He also submits that the house in question was in the name of father of petitioner No.1, who executed a Will to the effect

that after death of respondent No.2, said house would go to petitioner No.1 and her brother Rajiv Mahajan. Petitioners have also been paying rent of Rs.5000/- per month to respondent No.2, who is acting at the behest of her son.

Plea has been refuted by counsel appearing for respondent No.2. According to him the authority has rightly directed the petitioners to vacate second floor of the house in question as the answering respondent had right to even sell the house in case her daughter and son do not look after her.

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

It appears, respondent No.2, who is 81 years old lady, filed an application under Sections 22 & 23 of the Maintenance of Parents and Senior Citizens Rules, 2007, seeking eviction of petitioners (her daughter and son-in-law) from the house in question, stating that she being owner of House No.1036, Sector 19-B, Chandigarh, has been living therein. She has a son namely, Rajiv Mahajan, who had already settled at Delhi along with his family and one daughter (petitioner No.1) with her husband (respondent No.2), both of whom are NRIs, are occupying second floor of her said house. After some time, they started harassing and torturing her and also started putting pressure upon her to transfer the property in their name. Ultimately, respondent No.1 filed application under sections 22 & 23 of the Act, seeking direction to evict the petitioners from the said house. After considering the entire issue and examining the documents, the authority directed the petitioners to vacate second floor of the house in question within 15 days, failing which Station House Officer, Police Station, Sector 19, Chandigarh would get the same vacated from petitioners and protect life and property of the applicant (respondent No.2 herein).

I find no infirmity with the order passed by the authority. A perusal of Will (Annexure P-1) executed by late Shri D.R. Gupta, husband of respondent No.2 and father of petitioner No.1, clearly reveals that respondent No.2 would be competent to sell the house in question in case his son and daughter do not look after her after his death. The authority below has acted in accordance with the provisions of special enactment and with a view to achieve objectives of the Act. There is no ground to interfere in the writ jurisdiction. Petition is without any merit and is hereby dismissed.

August 28, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No