

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

LPA No.1589 of 2017 (O&M)

Date of Decision : 30.08.2017

Sukhwinder Singh @ Sonu and others

....Appellants

Versus

Deputy Commissioner-cum-District
Magistrate, Jalandhar and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present: Mr.Harsh Chopra, Advocate
for the appellants.

...

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 09.08.2017 declining interference in writ proceedings preferred by the appellants against the order passed by the Deputy Commissioner-cum-District Magistrate, Jalandhar ordering eviction of the appellants from the premises in question.

Before us learned counsel for the appellants with reference to Section 2(h) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act') has contended that respondent No.3 is not a senior citizen being 55 years of age. Section 2(h) is extracted herebelow :-

“senior citizens” means any person being a citizen of India, who has attained the age of sixty years or above;”

After hearing the learned counsel for the appellants, we are of the opinion that this plea is totally baseless. The term 'parent'

has been defined in Section 2(d) of the Act which reads as under :-

“parent” means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen;”

In Section 5 of the Act, an application for maintenance under Section 4 can be maintained by a senior citizen or a parent as the case may be. The nomenclature of the Act also refers to maintenance to senior citizen. Therefore, it is not necessary that a parent essentially has to be a senior citizen and the only requirement is that the person who invokes the provisions of the Act should be a parent. The term 'senior citizen' does not necessarily have to be read in conjunction with the term 'parent' and these are mutually exclusive of each other.

Rule 23 of Punjab Maintenance and Welfare of Parents and Senior Citizens Rules, 2012, is also extracted herebelow :

“23. Action plan for the protection of life and property of senior citizens.-- An action plan, for protection of life and property of senior citizens shall be notified by the State Government within a period of six months from the date of publication of these rules in the Official Gazette and it may be revised from time to time.”

The aforesaid rule envisages a notification to be issued by the State Government within a period of six months from the date of publication of the Rules, pursuant to which a notification has been issued setting out a procedure for eviction from property/residential

building of Senior Citizens/parent, which notification is also extracted herebelow :-

“1. Procedure for eviction from property/residential building of Senior Citizens/parent :

(i) Complaints received (as per provisions of the Maintenance of Parents and Senior Citizens Act, 2007) regarding life and property of Senior Citizens by different Department/Agencies i.e. Social Security, Sub Divisional Magistrate, Police Department, NGOs/Social Worker, Helpline for Senior Citizens and District Magistrate himself, shall be forwarded to the District Magistrate of the concerned district for further action.

(ii) The District Magistrate shall immediately forward such complaints/applications to the concerned Sub Divisional Magistrates for verification of the title of the property and facts of the case through revenue department/concerned Tehsildars within 15 days from the date of receipt of such complaint/application.

(iii) The Sub Divisional Magistrates shall submit its report to the District Magistrate for final orders within 21 days from the date of receipt of the complaint/application.

(iv) If the District Magistrate is of opinion that any son or daughter or legal heir of a senior citizens/parents are in unauthorized occupation of any property as defined in the Maintenance and Welfare of parents and Senior Citizens

act 2007, and that they should be evicted, the District Magistrate shall issue in the manner hereinafter provided notice in writing calling upon all persons concerned to show cause as to why an order of eviction should not be issued against them/him/her.”

This notification is in consonance with the provisions of the statute and takes care of parents and senior citizens both.

Consequently, the appeal is dismissed with a direction to the Deputy Commissioner-cum-District Magistrate, Jalandhar to evict the appellants from the premises in question forthwith.

(MAHESH GROVER)
JUDGE

30.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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