

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

**CR No.2146 of 2018 (O&M)
Date of Decision: April 17, 2018**

Gurdial Singh

...Petitioner

Versus

Navdeep Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Puran Chand Arora, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

The petitioner Gurdial Singh, a senior citizen has invoked the jurisdiction of this Court under the provisions of Article 227 of Constitution of India challenging the orders of learned Tribunal dated 11.02.2015 which has merged into the orders of Appellate Tribunal dated 26.07.2017 (Annexure P/1), whereby, his complaint/application for vacation of his house situated in New Sham Nagar, Ludhiana from his son Navdeep Singh and daughter-in-law Narinder Kaur stood dismissed by the two authorities below under the Maintenance and Welfare of Senior Citizen Act, 2007 (in short, 'the Act').

Upon hearing learned counsel for the petitioner and perusing the records, it is the own stand of the petitioner that the plot upon which the house in question has been built was purchased in his name and in the name of his deceased wife Harjinder Kaur in equal shares and that his

wife has died on 22.11.2013. It is further claimed that half portion of this house has been transferred by the petitioner in the name of his elder son Navneet Singh and that the present respondents have failed to vacate the house. The own stand of the petitioner that half portion of the house stand in the name of his deceased-wife and that half part of the house he has transferred in the name of his elder son Navneet Singh and, thus, the very question of the petitioner being the owner of the house in question and having locus standi to file such an application before the authorities is certainly a debatable issue. Besides the fact that mutation proceedings regarding this house are pending and a civil suit is also pending before the Court of Civil Judge. To the mind of this Court, the very question of distribution of share of the house is still under dispute and admittedly no partition till date has been undertaken to this effect and that contrary to provisions of Sections 26 and 27 of the Act the petitioner himself has no jurisdiction of the Civil Court and there being intricate question of right to ownership on the part of this house, especially, the share left behind his wife Harjinder Kaur are matters which can only be adjudicated comprehensively in a Civil Court under the Succession Act. The two authorities below have rightly considered the fact that the petitioner Gurdial Singh has transferred half of the share of his house to his elder son and rest of the half share belongs to his wife registered in the name of her legal heirs including the present respondent/son and, therefore, he is also owner to some extent approximately of one marla and, therefore, rightly concluded that second son Navdeep Singh and his wife who are residing in the house cannot be evicted and has correctly dismissed the prayer of the petitioner.

The present petitioner is highly unfounded and uncalled for as such the same stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

April 17, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No