

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

Crl. Misc. M 52325 of 2018 (O&M)
Date of decision: 28.11.2018

Asha Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. J.S Thind, Advocate
for the petitioners.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 482 of the Code of Criminal Procedure seeking direction to be issued to the executing court to decide the case of the petitioner in compliance of order dated 2.11.2016 passed by Additional Sessions Judge, Sirsa regarding restoration of possession of the premises in question in favour of the petitioner.

In brief, the facts are that a petition was preferred by Savita Rani—respondent No.2 for herself and on behalf of her two minor children under the provisions of the Protection of Women from Domestic Violence Act, 2005. The Judicial Magistrate Ist Class, Sirsa, partly allowed the complaint to the extent that Savita Rani along with children would be allowed to live at the first floor of House No. 10, Gandhi Colony, Opposite AV School, Sirsa. Aggrieved against the said order, two appeals were filed; one by the petitioner herein and her son—Harjinder Singh and the other by

the complainant—Savita Rani herself. In the appeal filed by the petitioner—Asha Rani, it was contended that she is the owner in possession of House No.10, which fact was admitted by the complainant—Savita Rani in her cross-examination and, therefore, she would have no right to reside therein. The appeal was preferred by the complainant—Savita Rani against the said impugned order on the ground that she had been denied any monetary relief in terms of the maintenance. Both the appeals were decided by a common judgment by the Additional Sessions Judge, Sirsa. The appeal filed by the complainant—Savita Rani was dismissed whereas the appeal filed by the petitioner herein was accepted. While disposing of the said appeals filed by both the parties, it was noted that House No. 10, in which right of residence has been given, was owned by the mother-in-law—Asha Rani and, therefore, in terms of the judgment laid down in **S.R. Batra and another Versus Smt. Taruna Batra 2007 (2) PLR 425**, the said house owned by the mother-in-law would not come within the definition of 'shared house-hold'. On this basis, it was held that the complainant—Savita Rani had no right of residence therein, while also holding that the complainant could reside in the house owned and possessed by her husband. Thereafter, the petitioner herein moved an application for enforcement of the order dated 2.11.2016 seeking delivery of the possession of the portion that was in possession of the complainant—Savita Rani.

The sole grouse of the petitioner herein is that despite execution petition having been filed as far back as 28.2.2017, the matter is not being decided and is being delayed on one pretext or the other, causing a lot of harassment to the petitioner who is 60 years old. In support of the

arguments, learned counsel for the petitioner has annexed several zimni orders of the executing court, which would reflect that the matter is being adjourned time and again.

I have heard learned counsel for the petitioner and without issuing notice, the instant petition is being disposed of keeping in view the limited prayer made therein by the petitioner for early disposal of the execution application that has been filed seeking restoration of the possession.

It appears that as on date there is no stay of the order passed by the Additional Sessions Judge, Sirsa on 2.11.2016. A perusal of the zimni orders would also reflect that despite the presence of the counsel on each date, the matter has been adjourned time and again.

In view of the fact that the petitioner is a senior citizen and seeks to have the order passed executed and return of the premises, which is in occupation of the complainant—Savita Rani, this Court deems it appropriate to allow the prayer made in this petition.

Consequently, this petition is allowed. The executing court is directed to decide the application preferred by the petitioner herein within a period of two months from the date of receipt of a copy of this order.

28.11.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No