

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.1026 of 2018

Date of decision: December 20, 2018

Mehar Singh

...Petitioner

Versus

Swaran Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. P.S. Brar, Advocate for the petitioner.

Mr. N.S. Rapri, Advocate for respondent No.1.

Mr. Sahil Sharma, DAG, Punjab.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 15.11.2017, passed by Deputy Commissioner-cum-Appellate Tribunal, Shahid Bhagat Singh Nagar, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Swaran Singh (respondent No.1 herein), has been accepted and petitioner as well as proforma respondent No.2 have been directed to vacate the land/house in question within a period of three months.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. Thus, the order deserves to be set-aside.

Plea has been opposed by counsel appearing for respondent No.1. According to him, respondent No.1 is an old man of more than 90 years of age and his sons did not look after him, rather used to raise quarrel and even beat him.

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

Brief factual matrix of the case is that Swaran Singh, who is senior citizen being about 91 years of age, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioner as well as proforma respondent No.2, seeking their eviction from his property/house, situated in village Majran Jattan, District Shahid Bhagat Singh Nagar, stating therein that his sons had been misbehaving and maltreating him usually. They also gave beatings to him many times. After considering entire material on record, and obtaining report from the field staff, the District Magistrate allowed the application filed by respondent No.1 and directed the petitioner and proforma respondent No.2 to vacate the said property within a period of three months.

I find no infirmity with the order. In judgment reported as ***Gurpreet Singh vs. State of Punjab and others, 2016 (1) R.C.R. (Civil) 324***, a Division Bench of this court held as under:-

“12. The petitioner is a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. A licence stands terminated the moment the licensor conveys a notice of termination of a licence. There is no vested right of any kind in the licensee to remain in possession of the property licensed. Admittedly, respondent No.4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respondent No.4 is required to be protected as mandated by Section 22 of the Act read with Rule 23 of the Rules

and para 1 of the Action Plan. There cannot be any effective protection of property of the senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or to restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of which the son is a licensee, such summary procedure will ensure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified.”

In view of above, I am of the considered view that the pleas raised before this court are without any merit. Same are hereby rejected. Petition is hereby dismissed.

December 20, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No