

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

CWP No.11311 of 2018

Date of decision: May 07, 2018

Dar Mohammad and another

...Petitioners

Versus

District Magistrate, Patiala & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Harmanjit Singh Jugait, Advocate for the petitioners.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 15.11.2017, passed by District Magistrate, Patiala, whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by respondents No.2 and 3 has been accepted and petitioners have been directed to vacate the house in question within a period of one month from the date of order.

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

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

Brief factual matrix of the case is that respondents No.2 and 3, parents of petitioners, who are senior citizens, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioners, seeking their eviction from the house situated in village Bhanra, District Patiala, stating therein that respondent No.2 is a retired government employee. After his retirement, he constructed the

house in question. He has three sons and all of them are well settled having their separate business. His son and daughter-in-law i.e. the petitioners started harassing and beating him and asked him to vacate the house in question. Respondent No.2 also moved a complaint to the police in this regard. In order to grab the house, petitioners ousted respondent No.2 and his wife from the house in question, who took shelter in the house of their relatives. After considering entire material on record, the District Magistrate allowed the application filed by respondents No.2 and 3 and directed the petitioners to vacate the said house within a period of one month.

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.

May 07, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No