

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

CWP No.14182 of 2018
Date of Decision:30.05.2018

Diler Singh

. Petitioner

Vs.

District Magistrate-cum-Appellate Maintenance Tribunal, Rohtak and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Ripudaman Singh Sidhu, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (O&M)

This petition is filed by Diler Singh, who is 72 years of age, a senior citizen, father of Naresh Kumar (Respondent No.4) and father-in-law of Pushpa Rani (respondent No.3). He had filed an application under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short 'the Act'] read with the Action Plan notified by State of Haryana, before the Tribunal constituted in terms of Section 7 of the Act, which was allowed on 18.4.2017. However, the appeal filed by respondents No.3 & 4 before the Deputy Commissioner-cum-Appellate Authority, Rohtak has been allowed vide impugned order dated 27.12.2017. The petitioner is aggrieved against the order of the Appellate Authority.

I have heard learned counsel for the petitioner and perused the record with his able assistance.

The Act is divided into VII Chapters. Chapter II deals with the 'Maintenance of Parents and Senior Citizen' and Chapter V deals with the

Act, which is a part of Chapter V, prescribes the authorities to implement the provisions of the Act. There are Haryana Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 [for short 'the Rules'] in which Rule 24, which is a part of Chapter VI of the Rules, pertains to the 'Protection of Life and Property of Senior Citizen', provides an Action plan for the protection of life and property of senior citizen under Section 22(2) of the Act, to be notified by the State Government within a period of six months from the date of publication of the Rules in the Official Gazette. Accordingly, the State of Haryana published the Action Plan for the 'Protection of Life and Property of Senior Citizen' under the Act on 26.5.2015 in which Clause-I lays down the procedure for eviction from the property/residential building belonging to/occupied by Senior Citizen/Parents. The power has been conferred solely upon the District Magistrate or other person duly authorized by him for considering an application in regard to eviction filed by senior citizen/parent of the property owned by him/her. The detailed procedure has also been provided.

Thus, I am of the considered opinion that as per the Action Plan, the power vests with the District Magistrate as *persona designata* and not with the Maintenance Tribunal which is constituted in terms of Section 7 of the Act, which is primarily meant for grant of maintenance and to entertain an application filed under Section 23 of the Act. Therefore, keeping in view the fact that the petitioner being a senior citizen, who was not aware of the authority who had to pass the order in case an application is filed for seeking eviction of unauthorized occupant much less son and daughter-in-law, had filed the application before the Maintenance Tribunal instead of District Magistrate and thus, the entire proceedings initiated, at the

instance of the petitioner, are null and void being devoid of inherit jurisdiction

In view of the above, the present petition is hereby disposed of observing that the orders passed by both the Maintenance Tribunal and Appellate Tribunal are without jurisdiction. Liberty is granted to the petitioner to file application in terms of Section 22(2) of the Act read with Rule 24 of Rules and Clause-I of the Action Plan as notified by the State of Haryana, before the District Magistrate and in case any such application is filed, the same shall be decided by the District Magistrate, in accordance with law, expeditiously.

30.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No