

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

CWP No.14277 of 2018

Date of decision: 20.12.2018

Yashpal Sharma and another

...Petitioners

Versus

District Magistrate, Jalandhar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Surinder Sharma, Advocate for the petitioners.

Mr. Avinit Awasthi, AAG, Punjab.

Mr. Rajiv Joshi, Advocate for respondent No.2.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 11.04.2018, passed by District Magistrate, Jalandhar, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Bimla Sharma (respondent No.2 herein), has been accepted and petitioners have been directed to vacate the house in question within a period of 30 days from the date of receipt of the order.

Learned counsel for the petitioners has urged before this court that the order suffers from patent illegality. According to him, petitioners have inherited the house in question after death of their father. Thus, the order deserves to be set-aside.

Plea has been opposed by counsel appearing for respondent No.2. According to him, respondent No.2 has been residing with her younger son who is 60% handicapped and unable to walk without the help of others and petitioners did not provide any help to them, rather harassed, humiliated and

tortured her mentally and physically.

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 Bimla Sharma, who is senior citizen being 71 years of age, filed an application under Section 22 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioners, seeking their eviction from her residential house, situated in village Jamsheer Khas, District Jalandhar, stating therein that petitioners, who are his son and daughter-in-law respectively, had been misbehaving and maltreating her usually. They also gave beatings to her many times. After considering entire material on record, and obtaining report from the Sub Divisional Magistrate, Jalandhar-I, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioners to vacate the said house within a period of 30 days from the receipt of the order.

I find no infirmity with the order. Vide order dated December 05, 2018, this court had directed the State counsel to seek instructions from the SHO of the concerned area and submit a report. Pursuant to the said order, the State counsel has produced a report made by SHO, Police Station Sadar, Jalandhar, which has been taken on record as Mark 'A'. According to State counsel, he has instructions to say that senior citizen is being harassed by the petitioners. 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.

20.12.2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No