

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

CWP No.14710 of 2018

Date of decision: 20.12.2018

Deepmala

...Petitioner

Versus

District Magistrate and Chairman of
Appellate Court, Karnal & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arun Sharma, Advocate for the petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.
Mr. K.S. Banyana, Advocate for respondent No.2.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 16.05.2018, passed by District Magistrate, Karnal, whereby application under Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Nirmala Rani (respondent No.2 herein), has been accepted and petitioner and her husband have been directed to vacate the house in question with immediate effect.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. According to him, husband of respondent No.2 is getting pension and thus, petition was not maintainable. Thus, the order deserves to be set-aside.

Plea has been opposed by learned counsel appearing for respondent No.2. He submits that her son and daughter-in-law used to harass and humiliate her. She had also submitted complaints to the police, but no action was taken.

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 respondent No.2 Nirmala, who is a senior citizen, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against her son and daughter-in-law i.e. the petitioner, seeking their eviction from her house bearing No.229-B, Saini Colony, Model Town, Karnal, which she had purchased vide sale deed dated 17.03.2010. She had permitted her son and daughter-in-law to live in her house. However, after some time, they started harassing and humiliating her without any reason and also abused her many times. She is also a patient of tuberculous and other diseases. After considering entire material on record as well as report of Sub Divisional Magistrate, Karnal, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioner and her husband to vacate the said house with immediate effect.

I find no infirmity with the order. Admittedly, 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