

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

CWP No.16236 of 2018 (O&M)

Date of decision: 20.12.2018

Mamta

...Petitioner

Versus

District Magistrate, Karnal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ajaypal Singh Srawaan, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Tarun Dhingra, Advocate for respondent No.2.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 11.04.2018, passed by District Magistrate, Karnal, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Pyare Lal (respondent No.2 herein), has been accepted and petitioner and her husband have been directed to vacate the house in question within a period of 30 days from the date of order.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. According to him, petitioner has been residing in the house in question alongwith her two minor daughters since 2004. A complaint under the Domestic Violence Act filed by her is also pending against her husband at Karnal. Thus, the order deserves to be set-aside.

Plea has been opposed by counsel appearing for respondent No.2.

According to him, the property in question is his self-acquired property and the

Tribunal has rightly evicted the petitioner from the house in question.

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 Pyare Lal, who is senior citizen being 78 years of age, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioner and her husband i.e. respondent No.3, seeking their eviction from his residential house, bearing No.189, Moti Nagar, Karnal, stating therein that his son and daughter-in-law had been harassing and humiliating him. He has been living on the first floor of the house and is dependent upon his daughter Jyoti. After considering entire material on record, and obtaining report from the 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 within a period of 30 days from the date of order.

I find no infirmity with the order. It appears that respondent no.2 had suffered several fractures in his leg and hip. Petitioner and her husband did not take care of him and daughter of respondent No.2 has been taking his care. 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