

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19952 of 2017
Date of decision: 16.4.2018

Surjit Kaur ...Petitioner

Versus

Union Territory of Chandigarh and others
...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr.Hemdender Goswami, Advocate for the petitioner.

Ms.Suman Devi, Advocate for
Ms.Deepali Puri, Advocate for UT Chandigarh-respondent No.1.

Mr.Prashant Gupta, Advocate for for respondent No.2.

Mr.Amit Aggarwal Advocate for respondent No.4.

Rakesh Kumar Jain, J.

This petition is preferred against the order dated 8.6.2017 passed by the District Magistrate, Chandigarh by which application filed by the petitioner under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act') has been dismissed.

The property in question is 2 Kanal house in Sector 28, Chandigarh. The petitioner is a widow. It is alleged that her husband has left behind not only the residential house but also some industrial properties. After the death of her husband, civil suit was filed by Ravinder Singh in which it was held by the Civil Court that the petitioner is a co sharer to the extent of 40% of the immovable property. However, the petitioner is not being allowed to

therefore, she filed an application under Section 22 of the Act for seeking eviction of the private respondents herein from the property in question and also for putting her in possession to the extent of her share. The said application has been dismissed by District Magistrate on the ground that petitioner is a co-sharer to the extent of 40%, therefore, she cannot maintain the application because other respondents are also co-owners like her and are not in unauthorised possession. Therefore, District Magistrate has observed that the petitioner may approach the civil court for the purpose of redressal of her grievance.

After hearing the learned counsel for the parties, and taking into consideration the facts and circumstances discussed above, I am of the considered opinion that such an application filed under Section 22 (2) of the Act is not maintainable against the persons, who are themselves co-owners in the property in question as the application is maintainable only against the unauthorised occupants. In this regard, reference could be had to the action plan wherein powers and duties have been conferred upon the District Magistrate to pass an order in regard to eviction of unauthorised occupant who may be the son or daughter of a senior citizen. Thus, the only remedy left with the widow-petitioner is to file a civil suit for possession by meets and bounds so that she may get her 40% share in the property i.e. 2 Kanal house.

With these observations, the present petition is hereby dismissed.

April 16, 2018
Meenu

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No