

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 27216 of 2015 (O & M)
Date of Decision: 15.1.2018

Jagdish Rai Garg

.....**Petitioner**

v.

The Maintenance Tribunal and another

.....**Respondents**

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Gautam Diwan, Advocate, for the petitioner

Mr. Govind Rana, Advocate, for respondent No. 1

RAKESH KUMAR JAIN, J (Oral) :

The petitioner has challenged the order dated 8.10.2015 passed by the District Magistrate, UT, Chandigarh by which his application filed under Sections 21 and 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short 'the Act') for eviction from shop cum flat (SCF), has been dismissed.

The property in dispute is a double storey shop cum flat (SCF) in Mani Majra. The petitioner had filed a civil suit for permanent injunction in order to restrain respondent No.2 from interfering in his possession. The Civil Court granted ad-interim injunction but allegedly violating the said interim injunction, respondent No. 2 entered into the possession. The petitioner has also filed a petition under Order 39 Rule 3A of CPC, which is pending. The District Magistrate dismissed the application on the ground that the matter is before the Civil Court in regard to the possession of the

parties, therefore, the same issue cannot be raised before him simultaneously.

Learned counsel for the petitioner has submitted that during the pendency of this petition, possession of the said property in dispute has been taken over by the bank in lieu of non payment of amount of loan for which the property in dispute was kept as a security by way of mortgage.

Since the petitioner is not in possession of the property in dispute, therefore, he cannot seek the possession of the same. The petitioner may, if so advised, file an application for seeking eviction, in case the possession of the property is regained, in accordance with law and the civil suit filed by him is also decided one way or the other.

With these observations, the present petition stands disposed of.

(RAKESH KUMAR JAIN)
JUDGE

15.1.2018

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No