

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

CWP No.21370 of 2018 (O&M)
Date of decision: December 11, 2018

Sukhwinder Singh and another ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Parminder Singh, Advocate for the petitioners.
Mr. Saurabh Mohunta, DAG, Haryana.
Mr. H.N. Sahu, Advocate for respondent No.3.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 18.07.2018, passed by Deputy Commissioner, Karnal, whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Pritam Singh (respondent No.3 herein), has been accepted and they have been directed to vacate House No.67, Street No.3, S.P. Colony, Phoosgarh Road, Karnal with immediate effect.

Learned counsel for the petitioners has urged before this court that the order suffers from patent illegality. According to him, petitioner No.1 is the son of respondent No.3 from his first wife. Respondent No.3 had performed re-marriage after the death of his first wife and has now two children out of said wedlock. Thus, the order deserves to be set-aside.

Plea has been refuted by counsel appearing for respondent No.3. According to him, petitioners even attacked respondent No.3 and his wife and even tried to kill them. Thus, the authority has rightly directed them to vacate

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 Pritam Singh, who is senior citizen, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against his son and daughter-in-law i.e. petitioners, seeking their eviction from his house bearing No.67, Gali No.3, S.P. Colony, Phoosgarh Road, Karnal, stating therein that he had permitted his son and daughter-in-law to live in his house. However, later on both of them had started harassing, humiliating and abusing him and his wife and putting pressure upon him to transfer the said house in their name. Keeping in view their behaviour towards him, respondent No.3 also disowned petitioner and his wife from his property by way of publication in the news paper. On 28.10.2015, petitioners also attacked respondent No.3 and his wife and tried to kill them. Later also moved an application to the police but the police did not take any action on the same. After considering entire material on record, the District Magistrate allowed the application filed by respondent No.3 and directed the petitioners to vacate the said house with immediate effect.

I find no infirmity with the order. 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.

December 11, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No