

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

CWP No. 23150 of 2018
Date of Decision: 12.09.2018

PREM LATA MAHAJAN

... Petitioner

VS.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Johan Kumar, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed under Section 22 (2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act') read with Action Plan, by the petitioner who is the mother-in-law of respondent No. 3.

Learned counsel for the petitioner has submitted that petitioner is the absolute owner of House No. 2919-A, Sector 3, Faridabad. It is alleged that respondent No. 3 is harassing the petitioner, therefore, an application was filed before the District Magistrate for seeking her eviction which has been dismissed without giving any cogent reasons.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that even the application filed solely against the daughter-in-law is not maintainable because Section 22 (2) provides that "*the State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.*"

The Government of Haryana had also framed the Haryana Maintenance of Parents and Senior Citizen Rules, 2009 (hereinafter referred

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to as 'the Rules') in which Rule 24 talks of the action plan for the protection of life and property of the Senior Citizen which reads as under: -

"An action plan under section 22(2) shall be notified by the State Government within a period of six months from the date of publication of these rules in the Official Gazette and may be revised from time to time."

Accordingly, the Government of Haryana has also notified the Action Plan vide notification dated 26.05.2015 in which Plan has been provided for the purpose of protecting the property of the senior citizens by conferring the powers upon the District Magistrate to pass an order of eviction against the unauthorized occupant(s).

As per the procedure prescribed, in the action plan, as soon as the complaint is made to the District Magistrate or received by him, he would refer the said complaint to the Sub Divisional Magistrate for verification of title and after receipt of the report from the SDM, he would form an opinion as to whether any son or daughter or legal heir of the senior citizen/parent is in unauthorized occupation of the property in question. Thereafter, he would issue a notice specifying the grounds upon which eviction is to be proposed and thereafter he would pass an eviction order after affording an opportunity of hearing and being satisfied that the property in dispute is in unauthorized occupation.

Since, present petition is filed against the daughter-in-law (respondent No. 3) whose husband is alive, therefore, she does not fall in the definition of son/daughter/legal heir. As far as legal heir is concerned, respondent No. 3, being a married daughter in law, would not fall within the definition of legal heir in view of Section 8 of the Hindu Succession Act,

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1956 in which Schedule - 1 deals with the persons who would succeed to the property of a person dies intestate in which a widow daughter-in-law is given a right to succeed and not a daughter-in-law whose husband is alive. Therefore, respondent No. 3, not being a legal heir cannot be proceeded against by her mother-in-law for the purpose of seeking her eviction in the summary proceedings under Section 22 (2) of the Act.

In view of the above, the present petition is found to be not maintainable and the same is dismissed.

September 12, 2018

Ess Kay

**[RAKESH KUMAR JAIN]
JUDGE**

Whether speaking / reasoned :

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Yes / No

Whether Reportable :

Yes / No