

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 23715 of 2018

Date of decision : 20.12.2018

Gobind Ram & anr.

....Petitioner

V/s

District Magistrate, Jalandhar, Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Anil Kumar Spehia, Advocate for the petitioner.

Mr. Sahil Sharma, DAG Punjab.

Mr. Bhupinder Gupta, Advocate for

Mr. Himanshu Gupta, Legal Aid Counsel for respondent no. 2.

RAJAN GUPTA J.

Petitioners have posed a challenge to order dated 11.07.2018, Annexure P-3 passed by District Magistrate, Jalandhar (respondent no. 1 herein) whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, (hereinafter referred to as 'the Act') filed by Ram Kaushalya (respondent no. 2 herein), has been accepted and petitioners have been directed to vacate the house in question within a period of thirty days. The authority also directed that in case petitioners failed to comply with the directions within the prescribed time, in that eventuality, Commissioner of Police, Jalandhar would provide necessary police help in order to get the house vacated. It has been urged before the court that application filed under the Act is not maintainable at the instance of respondent no. 2 as she is not the owner of the house in question. According to him, petitioner no. 1 is a co-sharer in the property and not an unauthorized occupant as the house in question is in the name his father namely Sant Ram (deceased). Thus, impugned order deserves to be set-aside. Plea has been

refuted by counsel appearing for respondent no. 2. He submits that petitioners are harassing respondent no. 2, therefore, an application was moved before the District Magistrate seeking their eviction which has been rightly allowed.

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 Ram Kaushalya, who is senior citizen, filed an application under section 22 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 against his son and daughter-in-law (petitioners herein) seeking their eviction from the house No. 1192-Bhargo Camp, Jalandhar. It has been stated therein that petitioners had been harassing her mentally and physically. They were not paying any money for maintenance and also used to insult her off and on. After considering the entire material on record, District Magistrate, Jalandhar allowed the application filed by respondent no. 2 and directed the petitioners to vacate the house in question within a period of thirty days. 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 has 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.”

It appears that petitioners are living on the first floor of the house in dispute whereas respondent no. 2 is residing in one room and a bathroom constructed on the ground floor. House in question is in the name of Sant Ram (deceased) husband of respondent no. 2 and is a self acquired property. Besides, petitioners cannot question the title of Ram Kaushalya (respondent no. 2 herein), widow of Sant Ram in view of Gurpreet Singh’s case (supra). 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 20, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No