

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

CWP No.23811 of 2018 (O&M)
Date of decision: 20.12.2018

Madhu Bala

...Petitioner

Versus

District Magistrate-cum-Deputy Commissioner,
Yamuna Nagar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. H.S. Saini, Advocate for the petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.
Mr. Amandeep Vashisth, Advocate for respondents No.2 & 3.
Mr. Nimanyu Gautam, Advocate for respondent No.4.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 11.07.2018, passed by District Magistrate, Yamuna Nagar, whereby application under Section 22 read with Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by respondents No.2 & 3, has been accepted and petitioner and her husband have been directed to vacate the house in question within a period of 30 days from the date of order.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. According to him, respondents No.2 and 3 and their son- respondent No.4 are conniving with each other to evict the petitioner from her matrimonial home as a matrimonial dispute is already going on between petitioner and her husband. Thus, the order deserves to be set-aside.

Plea has been opposed by counsel appearing for respondents No.2 and 3. According to him, respondents No.2 and 3 had permitted the petitioner

and her husband in their house at first floor. However, later on their son and daughter-in-law started harassing and humiliating them without any reason. Thus, the Tribunal has rightly evicted the petitioner and her husband from 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 respondents No.2 and 3 (parents), who are senior citizens, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioner and her husband i.e. respondent No.4, seeking their eviction from their residential house, bearing No.1583, Subhash Nagar Colony, Kali Mandir, near Water Tank, Jagadhri, District Yamuna Nagar, stating therein that they had permitted their son and daughter-in-law in their house. However, they started harassing and humiliating them. Their son Ajit Kumar has been doing private job, whereas his wife is working as Helper in Aanganwari Centre and are earning more than Rs.20,000/- per month. After considering entire material on record, and obtaining report from the Sub Divisional Magistrate, Jagadhri, the District Magistrate allowed the application filed by respondents No.2 and 3 and directed the petitioner and her husband to vacate the said house within a period of 30 days from the date of order.

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.

20.12.2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No