

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

CWP No.26156 of 2017

Date of decision: February 15, 2018

Deepak Raj

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ivan Singh Khosa, Advocate for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

Mr. Sapan Dhir, Advocate for respondent No.3.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 18.09.2017, passed by District Magistrate, Panchkula, whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by respondent No.3 has been accepted and petitioner has been directed to vacate the house in question within 30 days from the date of order.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. Thus, same deserves to be set-aside. He has relied upon judgment in ***T.S. Virk and another Vs. State of Punjab and others, 2017 (3) PLR 403.***

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

Brief factual matrix of the case is that the applicant/respondent No.3 Veena Rani, who is senior citizen within the meaning of the Act,

preferred an application before the District Magistrate, Panchkula seeking eviction of the petitioner from House No.1012, Sector 12-A, Panchkula. She is owner of the aforesaid house, which was allotted to her by HUDA. Her husband had expired. Respondent No.3 permitted petitioner, his wife and children to live on the first floor of the aforesaid house. However, later on petitioner and his family members started harassing her. Petitioner also filed a suit against respondent No.3 in the court at Panchkula, which was dismissed on 12.6.2013. After considering entire material on record, the District Magistrate allowed the application filed by respondent No.3 and directed the petitioner to vacate the said house within thirty days.

I find no infirmity with the order. The judgment in *T.S. Virk's case (supra)* is not applicable to the facts of the instant case. 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 dismissed.

(RAJAN GUPTA)
JUDGE

February 15, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No