

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

CWP No. 25438 of 2018

Date of decision : 20.12.2018

Yogesh Kumar & anr.

...Petitioners

V/s

Additional Deputy Commissioner, Panchkula & anr.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sudhanshu Makkar, Advocate for the petitioners.

Mr. Sourabh Mohunta, DAG Haryana.

Mr. Sunil K. Sahore, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioners have posed a challenge to order dated 24.08.2018, Annexure P-3 passed by Additional Deputy Commissioner, Panchkula (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 Manjeet Kaur (respondent no. 2 herein), has been accepted and petitioners have been directed to vacate the house in question within a period of 30 days. The authority also directed that in case petitioners fail to comply with the directions within the prescribed time, in that eventuality, Sub Divisional Officer, (Civil), Kalka would get the house vacated by use of police force. It has been urged before the court that order suffers from patent illegality as same has been passed without affording any opportunity of hearing to petitioners. Same, thus, deserves to be set-aside.

Learned counsel for respondent no. 2 has refuted the contentions and

submits that respondent no. 2 is the absolute owner of the house in question.

According to him, petitioners are harassing her, 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 respondent no. 2- Gurpreet Kaur 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 herein, seeking their eviction from the house bearing No. 145, Thakur Das Manakpur, Chawla Colony, Railway Crossing, Pinjore, District Panchkula. It has been stated therein that she is the sole owner of the aforesaid house. However, since the last few years, petitioners often used to quarrel with her and are causing mental harassment which necessitated her to file the instant application under the Act. After considering the entire material on record as well as report from Sub-Divisional Officer (Civil), Kalka, the Additional Deputy Commissioner, Panchkula allowed the application filed by respondent no. 2 and directed the petitioners to vacate the house in question within a period of 30 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.”

In view of above, I am of the considered view that the pleas raised before this court are without any merit. Same are rejected. Petition is hereby dismissed.

December 20, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No