

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

CWP No.2590 of 2018 (O&M)
Date of decision: December 11, 2018

Anu Sehgal

...Petitioner

Versus

District Magistrate, Patiala & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vipul Joshi, Advocate for
Mr. P.S. Ahluwalia, Advocate for the petitioner.
Mr. Arshdeep S. Kler, Advocate for respondent No.2.
Mr. Karan Singla, Advocate for respondent No.3.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 29.11.2017, passed by District Magistrate, Patiala, whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Bhagat Singh (respondent No.2 herein), has been accepted and she has been directed to vacate House No.83/2, Near Shani Dev Mandir, Tobha Kashmiriyan, Patiala within two months from the date of order.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality as same has been obtained by her father-in-law in collusion with her husband, who has already filed a divorce petition against her on the ground of adultery. Thus, same deserves to be set-aside.

Plea has been refuted by counsel appearing for respondent No.2. He submits that against the impugned order, Harcharan Singh, husband of the petitioner had also filed separate writ petition i.e. CWP No.378 of 2018 against

his father Bhagat Singh, in which petitioner was impleaded as respondent No.2. However, said writ petition was dismissed by this court on 18.01.2018.

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 Bhagat Singh, who is senior citizen, 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. petitioner and respondent No.3, seeking their eviction from his house bearing No.83/2, Near Shani Dev Mandir, Tobha Kashmiriyan, Patiala, stating therein that he had permitted his son and daughter-in-law to live in his house. However, later on both of them had started misbehaving him in the presence of relatives, neighbours and friends. They had occupied major portion of the house forcibly. After considering entire material on record, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioner and her husband to vacate the said house by within two months from the date of order.

I find no infirmity with the order. Plea of the petitioner that the impugned order has been obtained by her father-in-law in collusion with her husband, is not sustainable as her husband had already filed a separate writ petition, which was dismissed by this court on 18.01.2018. 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.

December 11, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No