

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

CWP No.28043 of 2018
Date of decision: October 31, 2018

Bhim Singh and another ...Petitioners

Versus

District Magistrate, Gurugram and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Akshay Kumar Jindal, Advocate for the petitioners.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 20.09.2018, passed by District Magistrate, Gurugram, whereby petition under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 read with 'Action Plan' for the Protection of Life and Property of Senior Citizen, filed by Manbhari Devi (respondent No.2 herein), has been accepted and petitioners have been directed to vacate the house in question within a period of one month from the date of order.

Learned counsel for the petitioners has urged before this court that the order suffers from patent illegality. After the death of his father, petitioner No.1 had become co-sharer in the house in question to the extent of 1/7th share and thus, he cannot be ousted from the same by another co-sharer. Thus, order deserves to be set-aside.

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

Brief factual matrix of the case is that Manbhari Devi, who is senior citizens, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 read with 'Action Plan' for the Protection of Life and Property of Senior Citizen against the petitioners, seeking their eviction from the house, situated within the Abadi of Kasan, District Gurgaon, stating therein that her son i.e. petitioner procured a forged and fabricated Will of the house in question in his favour, which had been challenged by her in the court of S.D.O. (Civil), Gurugram-North and same was got cancelled. Petitioners ousted her from the house in question. After considering entire material on record as well as report of Sub Divisional Officer (Civil), Gurugram-North, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioners to vacate the said house within a period of one month.

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.

October 31, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No