

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

CWP No.28292 of 2018

Date of decision: November 02, 2018

Ashish Khanna and another

...Petitioners

Versus

The District Magistrate, Ambala & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Dhruv Gupta, Advocate for the petitioners.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 21.09.2018, passed by District Magistrate, Ambala, whereby petition under Section 22 (2) of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Adarsh Prabha (respondent No.2 herein), has been accepted and petitioners have been directed to vacate the house in question within a period of 30 days from the date of order. The authority directed that in case petitioners fail to comply with the directions within the prescribed time, in that eventuality, Sub Divisional Magistrate would get the house vacated by use of police force.

Learned counsel for the petitioners has urged before this court that the order suffers from patent illegality. Thus, same 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 Adarsh Prabha, who is senior citizen, filed an application under the provisions of Maintenance and

Welfare of Parents and Senior Citizens Act, 2007 against the petitioners, seeking their eviction from House No.12, 1st Floor, Housing Board Colony, Naraingarh Road, Ambala City, stating therein that she is the sole owner of the aforesaid house. Since last few years, petitioners started harassing her mentally and physically. She also submitted a complaint to the police but no action was taken on the same. After considering entire material on record as well as report of Sub Divisional Magistrate, Naraingarh, the District Magistrate allowed the application filed by respondent No.2 and directed the petitioners to vacate the said house 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 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.

November 02, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No