

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

CWP No.28782 of 2018 (O&M)
Date of decision: December 17, 2018

Shashi Mohan ...Petitioner

Versus

Additional Deputy Commissioner and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Shashi Himshikha, Advocate for the petitioner.
Mr. Avinit Awasthi, AAG, Punjab.
Mr. Lajpat Sharma, Advocate for respondents No.2 & 3.

Rajan Gupta, J.(oral)

Petitioner has impugned the order dated 13.07.2018, passed by Additional Deputy Commissioner while exercising the powers under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Operative part of the order reads as under:-

“Decision of this case is taken based on the records on the file, statements given by the witnesses of complainant and respondents, ownership report received from Sub Divisional Magistrate, Derabasi, answers, evidence presented in relation to ownership and after hearing the argument. As per the ownership report Satinder Kaur wife of Shashi Mohan is the owner of the house which the complainant want to get vacate from the respondents. As per record on the file after death this house in Village Bhabat Tehsil Derabassi has been equally entered in the name of Shashi Mohan, husband and Deepak Verma, daughter, Akasdeep Verma – Paras Verma sons of Satinder Kaur wife of Shashi Verma vide Intkal No.22435. So the complainant is owner of 25% share of this house. So the order is issued to deliver the possession of first floor to the complainant of

the house at village Bhabat. The respondent Paras Verma has shown his willingness for the possession of first floor. Forward copy of this order to Senior Superintendent of Police, S.A.S. Nagar for necessary action as per Para 3 (ii) of Notification 10/20/2014-D.C./353259/1 dated 27.11.2014 issued by the Government and Tehsildar Derabassi for pasting at the house and necessary action.”

Learned counsel for the petitioner submits that order cannot be said to be strictly within the ambit of the provisions of the Act nor the authority has taken into consideration the precedent on the issue. She, thus, prays that the order deserves to be set-aside and remitted to the same authority. She places reliance on judgment in ***Gurpreet Singh vs. State of Punjab and others, 2016 (1) R.C.R. (Civil) 324.***

This court finds substance in the plea. Impugned order is hereby set-aside. Same is remitted to the same authority for decision afresh as per law at the earliest, in any case not later than three months. It shall be at liberty to take into consideration judgment in *Gurpreet Singh's* case (supra) or any other judgment, the parties seek to place reliance on.

(RAJAN GUPTA)
JUDGE

December 17, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No