

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

CWP No. 9564 of 2016

Date of Decision: 18.01.2018

SUDESH KUMARI

.....Petitioner

V/S

DISTRICT MAGISTRATE, U.T., CHANDIGARH AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Shekhar Choudhary, Advocate,
for the petitioner.

Mr. Bishan Kumar, Advocate
for Mr. Vikas Bali, Advocate,
for respondent No. 1.

Mr. Sant Kumar, Advocate,
for Mr. S.K. Arora, Advocate,
for respondents No. 2 and 3.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 23.03.2016 passed by the District Magistrate, U.T., Chandigarh by which an application filed by the petitioner under Section 5 and 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been dismissed.

Learned counsel for the petitioner has submitted that at the age of 57 years, the petitioner got married to one Sat Kartar Kapoor, who was allegedly the owner of House No. 861, Sector 38, Chandigarh. The said marriage was performed on 07.08.2011 and got registered on 23.08.2011. Unfortunately, Sat Kartar Kapoor died on 07.10.2014.

It is submitted that respondent No. 2 is the step son of the petitioner and according to respondent No. 2, there was an agreement in

writing between the parties and in view thereof, the petitioner has received ₹8.00 Lakhs by way of Demand Drafts and vacated the house in question.

Since, the petitioner is out of the said house, therefore, she filed an application under Section 5 read with section 22 of the Act seeking a direction to respondent No. 2 to maintain her especially in regard to providing residence and not to interfere in her peaceful possession of the house in question.

Learned counsel for the petitioner has submitted that as per Section 4 of the Act, a senior citizen or parent can file an application for seeking the maintenance and has further submitted that as per Section 2 (b), maintenance includes provision of food, clothing, residence, medical attendance and treatment.

The District Magistrate has observed that the petitioner has not been forced to vacate the house rather she has vacated the house in view of the agreement entered between the parties in which she has received a sum of ₹8.00 Lakhs by way of Bank demand drafts. During the course of hearing, learned counsel for the petitioner has admitted that the amount was taken by the petitioner.

Be that as it may, the fact remains that the house in question has thereafter being sold by respondent No. 2 who is now living in Canada. Therefore, the application filed by the petitioner for residence has rightly been dismissed by the District Magistrate because respondent No. 2 is not living in India and since mediation proceedings between the parties have also failed, therefore, it seems that the parties are at loggerhead and they cannot live together. However, District Magistrate has made an arrangement for the

petitioner by allowing her the stay in ‘Svera’ being run in House No. 907, Sector 43, Chandigarh. Thus, in view thereof, the very fact that the petitioner has not challenged the agreement and receipt, the order passed by the District Magistrate cannot be interfered with.

In view of the above, I do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

January 18, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No