

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

CWP No.30516 of 2018

Date of decision: December 11, 2018

Pankaj Sodhi and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. L.S. Virk, Advocate for the petitioners.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 16.10.2018, passed by Additional Deputy Commissioner, Fatehgarh Sahib, whereby order dated 04.04.2018, dismissing the application filed by respondent No.4 under Section 23 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, has been set-aside and said application has been allowed, directing the petitioner to vacate the house in question within 15 days.

Learned counsel for the petitioners has urged before this court that the order passed by the Appellate Authority suffers from patent illegality. According to him, the Sub Divisional Magistrate, Fatehgarh Sahib had rightly dismissed the application filed by respondent No.4. Thus, order passed by the appellate authority deserves to be set-aside.

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

Brief factual matrix of the case is that Preetpal Singh, who is senior citizen, filed an application under Section 23 of Maintenance and

Welfare of Parents and Senior Citizens Act, 2007 against the petitioners, seeking their eviction from his house, situated in Professor Colony, Sirhind Mandi, District Fatehgarh Sahib, on the ground that petitioners, who are his son and daughter-in-law, had been harassing and humiliating him and also pressurizing him to transfer his property and bank balance etc. in their favour. His son even used to give beating to him. Vide order dated 04.04.2018, the Sub Divisional Magistrate, Fatehgarh Sahib dismissed the application filed by respondent No.4 on the ground that he had sufficient income to maintain himself and the instant application was filed in order to close down the Soda Water Machine installed by petitioner No.1 in the house in question. Aggrieved, respondent No.4 preferred appeal. After considering the entire material on record, the Appellate Authority-cum-Additional Deputy Commissioner, Fatehgarh Sahib, vide order dated 16.10.2018, accepted the appeal by setting-aside the order passed by the Sub Divisional Magistrate, Fatehgarh Sahib and directed petitioners to vacate the house in question within 15 days. It observed that respondent No.4 being very old, cannot earn his livelihood and due to Soda Machine in the house in question, he had been facing problems.

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.

December 11, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No