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

**CWP No.7013 of 2017
Date of decision:24.07.2018**

Pushp Lata Hasija

...Petitioner

Versus

Presiding Officer, Tribunal for Maintenance and
Welfare of Senior Citizen, Gurgaon and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Amit Kumar Jain, Advocate,
for the petitioner.

Mr. Yeshpal Thakur, Advocate,
for respondent no.2.

Rakesh Kumar Jain, J. (Oral)

The petitioner is a senior citizen and mother-in-law of respondent no.2 who filed an application for seeking eviction of respondent no.2 in terms of the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the "Act") read with Rules 23 and 24 of the Haryana Maintenance of Parents and Senior Citizens Rules, 2009 (hereinafter referred to as the "Rules") along with the Action Plan for the protection of life and property of Senior Citizens, for Haryana, issued vide notification dated 26.05.2015 (hereinafter referred to as the "Action Plan"). The said application was filed before the Appellate Tribunal constituted under Section 15 of the Act. The Appellate Tribunal passed the order of eviction on 25.11.2016. Respondent no.2 filed a review application before the same authority, which was allowed on 27.12.2016, against which the present petition

has been filed by the petitioner.

Learned counsel for respondent no.2 has submitted that the entire proceedings including the order of eviction dated 25.11.2016 was itself without jurisdiction because the Appellate Tribunal does not have the jurisdiction to pass the order of eviction. In this regard, he has referred to Section 22 of the Act read with Rule 24 of the Rules along with Clause 2(1) of the Action Plan.

Counsel for the petitioner could not controvert this argument raised by learned counsel for respondent no.2, therefore, the entire proceedings initiated at the instance of the Appellate Tribunal of passing the order of eviction is without jurisdiction.

Faced with these observations, counsel for the petitioner prays that the impugned order including the order of eviction dated 25.11.2016 may be set aside but the petitioner may be permitted to file an appropriate application for seeking eviction of respondent no.2 before the District Magistrate in terms of the provisions of the Act, Rules and the Action Plan.

Counsel for respondent no.2 has not raised any objection in this regard.

In view thereof, the impugned order dated 27.12.2016 along with the eviction order dated 25.11.2016 passed by the Appellate Tribunal are hereby set aside. However, the petitioner may, if so desired, seek eviction of respondent no.2, file an application before the District Magistrate in terms of the provisions of the Act, Rules and the Action Plan.

July 24, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:
Whether Reportable:

Yes/No
Yes/No