

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

CWP No.5637 of 2018

Date of decision: December 11, 2018

Hemant Kumar alias Happy & another ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Shireesh Gupta, Sr. DAG, Punjab.

Mr. Amit Dhawan, Advocate for respondent No.3.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 10.01.2018, passed by District Magistrate, Jalandhar, whereby application under Section 22 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 read with Rule 23 of Punjab Maintenance and Welfare of Parents and Senior Citizen Rules, 2012, filed by Joginder Pal (respondent No.3 herein), has been accepted and petitioners have been directed to vacate the house in question i.e. A-24, Jagjeet Colony, Dakoha, Rama Mandi, Jalandhar within a period of 30 days from the date of receipt of copy of order.

Learned counsel for the petitioners has urged before this court that the order suffers from patent illegality. Thus, same deserves to be set-aside.

Plea has been opposed by counsel appearing for respondent No.3.

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

Brief factual matrix of the case is that Joginder Pal, 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 the house in question owned by him, situated in Jagjeet Colony, Dakoha Rama Mandi, Jalandhar, stating therein that petitioners, who are his son and daughter-in-law respectively, have been misbehaving and maltreating him and his wife, who was suffering from blood cancer. A report was also lodged with the police by respondent No.1, but no action was taken thereon. Besides, a case under sections 406, 420 and 120-B IPC was also registered against petitioner No.1. After considering entire material on record, the District Magistrate allowed the application filed by respondent No.3 and directed the petitioners to vacate the said house within a period of 30 days from the receipt of copy of the order.

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