

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

CWP No.6221 of 2018

Date of decision: December 20, 2018

Rajinder Kumar and another

...Petitioners

Versus

Additional Deputy Commissioner-cum-
Appellate Tribunal, Roopnagar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.K. Sharma, Advocate for the petitioners.
Mr. Ayush Saran, AAG, Punjab.
Mr. Amit Kumar, Advocate for respondent No.2.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 29.11.2017 (corrected vide corrigendum dated 01.02.2018), passed by Additional Deputy Commissioner-cum-Appellate Tribunal, Roopnagar, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Sida Ram (respondent No.2 herein), has been accepted and petitioners have been directed to vacate the house in question within 30 days from the date 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. According to him, impugned order has been passed by the Additional Deputy Commissioner, whereas District Magistrate ought to have passed the same. A mutual settlement was arrived at between the parties regarding the house in question, but respondent No.2 has backed out from the same.

Plea has been opposed by counsel appearing for respondent No.2.

According to him the house in question is self-acquired property of respondent

No.2. He has referred to letter dated 21.9.2010 (Annexure R-1) to contend that Additional Deputy Commissioner is exercising powers equal to the District Magistrate, vide Punjab Government Notification dated 29.4.2010.

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 Sida, who is senior citizen, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against his son and daughter-in-law i.e. petitioners, seeking their eviction from his house, bearing No.237, Ward No.7, Chamkaur Sahib, stating therein that he is an old man and had undergone heart surgery. His son Rajinder Kumar and his wife are out of his control, who have been harassing, humiliating and beating him without any reason. In view of their conduct, he disowned them from his properties. After considering entire material on record, and obtaining report from the Sub Divisional Magistrate, the Tribunal, vide order dated 29.11.2017 directed the petitioners to vacate the house in question within a period of 30 days with immediate effect.

I find no infirmity with the order. The contention of the petitioner that Additional Deputy Commissioner had no jurisdiction to pass the impugned order, is not tenable in view of Notification of the Punjab Government dated 29.4.2010. 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 20, 2018
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No