

LPA No. 2027 of 2017 (O&M)

(1)

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

LPA No. 2027 of 2017 (O&M)
in CWP No. 8419 of 2017

Date of decision: 9.1.2018

Smt. Anshula Rao and another

.. Appellants

VS

District Magistrate-cum- Deputy Commissioner
and another

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice B. S. Walia**

Present: Mr. D. Khanna, Advocate, Advocate, for the appellants.

Mr. Dhiraj Chawla, Advocate, for respondent no. 2/
caveator.

Rajesh Bindal, J.

Challenge in the present intra-court Appeal is to the order dated 28.8.2017 passed by the learned Single Judge whereby the writ petition filed by the appellants was dismissed. Challenge in the writ petition was to the order dated 9.3.2017 passed by the District Magistrate directing the appellants to vacate second floor of House No. 1036, Sector-19 B, Chandigarh, while invoking the provisions of the Maintenance & Welfare of Parents and Senior Citizens Act, 2007.

The appellants are daughter and son-in-law of respondent no.2, who are the NRIs. Respondent no.2 is having one son and one daughter. The son is living at Delhi. The claim of the appellants is that they had been living on second floor of the house and are paying ₹ 5,000/- per month as rent to respondent no. 2. Their further claim is that the allegations levelled against them are false. They had been taking care of respondent no. 2. Further it could not be established that the appellants had any right to remain in the property.

It was pointed out by learned counsel for the respondent/ caveator that during the pendency of the present appeal, the order passed by the learned District Magistrate has now been executed and the appellants have vacated the portion of the house in their occupation on 29.11.2017. He further pointed out that after this Court had not granted any interim relief to the appellants on 8.11.2017 and had rejected the prayer of the appellants for pre-ponement of the date of hearing, the appellants approached Hon'ble the Supreme Court by filing Special Leave to Appeal (C) No. 31766 of 2017, which was dismissed as withdrawn on 27.11.2017. It was immediately thereafter that the house was vacated by the appellants on 29.11.2017. It was further pointed out that appellant no.1, daughter of respondent no.2 has filed Civil Suit after vacating the house challenging transfer of the house in favour of respondent no. 2 referring to Will dated 16.5.1996 executed by late Dev Raj Gupta, husband of respondent no.2, which is still pending.

After hearing learned counsel for the parties and considering the fact that the appellants have already vacated the portion of the house in their possession and further that they could not establish any right to remain in the

property, we do not find any reason to differ with the view taken by learned Single Judge. Civil Suit has already been filed by appellant no.1 claiming right in the property, which is still pending.

For the reasons mentioned above, we do not find any merit in the present appeal. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

9.1.2018
vs

(B. S. Walia)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No