

(125) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.48 of 2018 (O&M)
in CWP No. 24708 of 2017
Date of decision:15.01.2018

Sumit Kumar and another.

.... Appellants

Versus

District Magistrate, Panchkula and another.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Bhushan Bhatia, Advocate for the appellants.

B.S. Walia, J.

[1] Challenge in this intra-court appeal is to judgment dated 28.11.2017 passed by the learned Single Judge upholding order dated 18.09.2017 passed by the District Magistrate, Panchkula under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short – 'the Act').

[2] Brief facts of the case are that respondent No.2 is the father of appellant/petitioner No.1 and is owner of Flat No.404, Haryana Vidhan Sabha Group Housing Society, Sector 24, Panchkula having retired as a government servant. Appellant/petitioner No.1 is posted in the Haryana Vidhan Sabha and was allowed by his father (respondent No.2) to live in a room in the aforesaid flat while other two rooms were given on rent.

However, the appellant/petitioner No.1 threatened not only his younger brother but also his father i.e. respondent No.2 that he would grab the property in question, besides, held out threats to the tenant and also tried to get the flat vacated forcibly whereupon respondent No.2 made a complaint to the Deputy Commissioner of Police, Panchkula but in the meantime, the appellant/petitioner No.1 broke open the locks of the flat and forcibly occupied the premises. In the circumstances, respondent No.2 filed a petition under the Act against the appellants/writ petitioners for their eviction from the flat in question whereupon vide order dated 18.09.2017, the District Magistrate, Panchkula directed the appellants/writ petitioners to vacate the aforesaid flat within a period of 30 days from the date of order and in case of failure to comply with the directions, police help was allowed to ensure eviction.

[3] Learned Writ Court took into account decision of Division Bench of this Court in **Gurpreet Singh v. State of Punjab and Others, 2016 (1) RCR (Civil) 324** that the son of the petitioner therein was a licensee living in the premises on the basis of concession given to him by his father to live in the property owned by him and that as a licensee a son is permitted only to enjoy the possession of the licensed property without creating any interest in the property and further that the licence stands terminated the moment the licensor conveys notice of termination of the licence, that a son would have no right to resist eviction and mere fact that the Act does not contemplate eviction of an occupant cannot stand in the way of the passing of order by the competent authority since eviction is one part of the right to protect the property of a senior citizen which can be exercised by a senior citizen in terms of the provisions of the Act, Rules framed thereunder and the notified

Action Plan. In the circumstance, the learned Writ Court dismissed the writ petition.

[4] The appellants/writ petitioners by way of the present appeal have challenged the order passed by the learned Single Judge primarily on the ground that order dated 18.09.2017 has not been passed by the competent authority as the notice was issued by the Additional District Magistrate while the impugned order was passed by the District Magistrate and secondly, that respondent No.2 was not a senior citizen on the date of complaint i.e. 22.12.2015.

[5] Respondent No.2 approached this Court by way of CWP No.13550 of 2016 which was disposed of vide order dated 14.07.2016 (Annexure P6) by directing the District Magistrate, Panchkula to look into the complaint himself or to refer it to the competent authority for decision. The complaint came to be decided thereafter only on 18.09.2017. Admittedly, respondent No.2 attained age of being a senior citizen on 03.04.2016. Therefore, the hyper-technical plea taken by the appellants/writ petitioners that the complaint is dated 22.12.2015, is of no avail since admittedly the complaint was decided in September 2017 by the District Magistrate, Panchkula i.e. the competent authority. Once it is the position that the appellant/writ petitioner No.1 was residing in the flat in question in his capacity as a licensee, he has no right to resist eviction as sought by his father as permission to appellant/petitioner No. 1 to use the premises stood terminated the moment respondent No. 2 i.e. licensor conveyed notice of termination of the licence. The flat admittedly is registered in the name of respondent No.2 who is father of appellant/writ petitioner No.1.

[6] In the circumstances, we find no merit in the appeal warranting interference with the well reasoned order passed by the learned Single Judge.

[7] Accordingly, the present appeal is dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

15.01.2018
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1. Whether the order is speaking/reasoned : Yes/No.
2. Whether the order is reportable : Yes/No.