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

LPA No.52 of 2018 (O&M)
in CWP No.13700 of 2017
Date of decision:15.01.2018

Smt. Harvinder Kaur

…. Appellant

Versus

State of Punjab and others

…. Respondents

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

Present: Mr. Kunal Dawar, Advocate for the appellant.

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B.S. Walia, J.

[1] Challenge in this intra-court appeal is to order dated 14.11.2017 passed by the learned Single Judge in CWP No.13700 of 2017 whereby order dated 02.05.2017 passed by the Additional Deputy Commissioner-cum-Additional District Magistrate, SAS Nagar (respondent No.2) exercising the powers of the Chairman, Tribunal, Mohali (Under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007) (for short – 'the Act') on an application filed by respondent No.3 directing the appellant-writ petitioner who claims to be residing in a portion on the ground floor of House No.667, Phase 2, SAS Nagar to shift to the first floor to accommodate respondent No.3 on the ground floor, has been upheld.

[2] Learned Single Judge upheld the order dated 02.05.2017 passed by the competent authority i.e. respondent No.2 directing the appellant-writ petitioner to shift from the ground floor to the first floor by accepting the petition of respondent No.3 by allowing her to shift from the first floor to the

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ground floor. The learned Single Judge took into account the extreme old age of respondent No. 3, and the age related diseases. Her husband died in the year 1988 whereafter she had become owner of the property in question along with her son i.e. respondent No. 4 in equal share. She having suffered a fracture, being bed-ridden, therefore was unable to climb stairs. The learned Single Judge also took into account the directions to respondent No.4 i.e. son of respondent No. 3 and husband of the appellant writ petitioner to provide respondent No.3 with all basic amenities such as medical help, food, clothing to respondent No. 3.

[3] The learned Writ Court after taking into account all aspects of the matter came to the conclusion that there was no infirmity with the order passed by the competent authority and the matrimonial litigation referred to by the appellant-writ petitioner appeared to be an attempt to hoodwink the Court and defeat the provisions of the Act and possibility of the same being collusive in nature also could not be ruled out.

[4] The appellant-writ petitioner has merely been directed to shift from the ground floor to the first floor in view of the condition of respondent No.3 who is 97 years old lady having suffered hip fracture and therefore, is unable to move. Respondent No.3 is owner of the property in question in equal share with her son i.e. respondent No.4 who is husband of the appellant-writ petitioner. Whatever be the dispute if any between the appellant-writ petitioner and her husband (respondent No.4) the same is a dispute inter-se between the two of them. The same cannot be pressed into service by the appellant-writ petitioner or for that matter respondent No. 4 to nullify the rights of respondent No.3 under the Act so as to enable her to lead a normal life.

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[5] In the circumstances, we do not find any circumstances warranting interference with the order passed by the learned Single Judge.

[6] Accordingly, finding no merit in the appeal, the same is dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

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Note:-

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

2. Whether the order is reportable : Yes/No.

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