

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

**LPA No. 685 of 2018 (O&M)
Date of decision: 10.5.2018**

Jagtar Singh and another

.....Appellants

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present: Mr. Gagandeep Goel, Advocate for the appellants.

Ajay Kumar Mittal, ACJ.

1. The present Letters Patent Appeal has been filed by the appellants against the judgment dated 1.3.2018 passed by learned Single Judge whereby the writ petition filed by the appellants against the order dated 12.1.2018 passed by respondent No.2 evicting them from the house in question has been dismissed.

2. A few facts relevant for the decision of the controversy involved as available on the record may be noticed. Respondent No.3 – Surjit Kaur filed an application for eviction of the appellants from the house situated at Villge Bhankharpur, Tehsil Dera Bassi, District SAS Nagar, Mohali before

respondent No.2. It was stated by respondent No.3 in the application that she is an old lady of 70 years and her husband had expired on 15.9.2016. The appellants who are son and daughter in law of respondent No.3 respectively were harassing her, not maintaining her and also living in the house in question illegally without having any rights. It was further stated that the house in question was purchased by her husband 35/36 years back and the same was constructed by him only. Notice of the application was given to the respondents. After considering the matter, the application was allowed by respondent No.2 vide order dated 12.1.2018 Annexure P.1 and the appellants were directed to vacate the house of respondent No.3 within a period of 45 days from the date of the passing of the order. Aggrieved thereby, the appellants filed CWP No.5117 of 2018 in this Court. It was contended that the house in question was in red line area and there was no proof of ownership. It was further pleaded that the house was purchased by father of appellant No.1 and since the date of purchase, the appellants were residing there. Further, father of appellant No.1 had not made any will in favour of respondent No.3.

3. We have heard learned counsel for the appellants.

4. After considering the entire facts and case law on the point, it has been categorically recorded by the learned Single Judge that on verification of the documents, it was found that the house in dispute was owned by husband of respondent No.3 Shri Atma Singh and after his death, she became the owner of the house. The application filed by respondent No.3 was allowed in view of the provisions of Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Act is not restricted to only providing maintenance but cast an obligation on the persons who inherit

the property of their aged relatives, to maintain such aged relatives. One of the major aims was to find out a suitable mechanism for the protection of life and property of older persons. It has been further recorded that the appellants had not placed on record any evidence to show that the house in dispute came to the share of appellant No.1. It was also not disputed that respondent No.3 had come in possession of the house as there was no revenue record to show that the house was transferred in the name of appellant No.1. Even no record had been shown to the extent that after the death of father of appellant No.1, the property or house was divided between appellant No.1 and her i.e. respondent No.3. Learned Single Judge finding no merit in the petition, rightly dismissed the same. The relevant findings recorded by Learned Single Judge read thus:-

“The petitioners have not placed on record any evidence to show that the house in dispute came to share of petitioner No.1. Nothing has been shown to the Court while raising arguments also. Both the petitioners are claiming their right over the house in dispute only on the ground that house in dispute was purchased by father of petitioner No.1 and father-in-law of petitioner No.2 but it has not been disputed that the mother-in-law has come in possession of that house as there is no revenue record to show that the house was transferred in the name of petitioner No.1. Even no record has been shown to this Court to the extent that after the death of father of petitioner No.1, the property or house was divided between petitioner No.1 and his mother i.e. respondent No.3.

On joint reading of the object of the Act 2007, provisions of Sections 22 and 23 and Punjab Maintenance and Welfare of Parents and Senior Citizen Rules, 2012 (hereinafter referred to as '2012 Rules') framed under Section 32 of the Act i.e. Rules 22 and 23 of the 2012 Rules read with Action Plan providing procedure for eviction from property/residential building of senior citizens/parent, indicate that the District Magistrate is competent to order eviction of an unauthorized occupants in terms of said provisions. The provisions of Act came up for consideration before a Division Bench of this Court in case of *Shanti Sarup Dewan Vs. U.T., Chandigarh* 2014 (5) RCR (Civil) 656, wherein, considering the provisions of the Act, it was observed that the Act is not only restricted to grant maintenance but also cast an obligation on the persons, who inherit the property of their aged relatives to maintain such aged relatives and the Act was aimed to provide for institutionalization of a suitable mechanism for protection of life and liberty of old persons. In ***Hamina Kang Vs. District Magistrate (UT), Chandigarh and others***, 2016 (1) RCR (Civil) 976, this Court while taking into consideration all the provisions of the Act, held that a daughter-in-law staying in the property exclusively owned by mother-in-law cannot be held entitled to claim right of residence and the eviction order could be passed against her in proceedings under the Act. Similarly in ***Gurpreet Singh Vs. State of Punjab***

2016 (1) RCR (Civil) 324, the provisions of the Act, 2012 Rules and the action plan for protection of life and liberty of the senior citizen framed under Rule 23 of the said Rules providing procedure for eviction of a son from the house owned by his senior citizen father came up for consideration. The Division Bench of this Court held that the District Magistrate is the competent authority to take steps for protection of life and property of the senior citizen and the summary exercise of jurisdiction by the District Magistrate is permissible to evict the son who could be a licensee and the moment the licensor terminates the licence, there is no vested right of any kind in the licensee to remain in possession of the property.”

5. In view of the above, we do not find any ground to differ with the findings recorded by the learned Single Judge. Consequently, finding no merit in the appeal, the same is hereby dismissed. In view of the dismissal of appeal, the application for condonation of delay of 33 days in filing the appeal is also dismissed.
6. This order shall also dispose of CM No. 1889-LPA-2018.

(Ajay Kumar Mittal)
Acting Chief Justice

May 10, 2018
‘gs’

(Tejinder Singh Dhindsa)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes