

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

**LPA No.992 of 2018(O&M)
Date of decision: 13.08.2018**

Varinder Kumar and another

... Appellants

Versus

District Magistrate, Amritsar and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. M.K. Dogra, Advocate for the appellants.

ARUN PALLI, J. (Oral)

This is an intra-court appeal under clause X of the Letters Patent against the order and judgment dated 24.05.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellants had since been dismissed.

The facts that are required to be noticed are limited.

Respondents No.2 & 3, who happen to be the husband and wife, moved an application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, against the appellants, who are their son and daughter-in-law respectively, seeking their eviction from the accommodation in their possession. On a consideration of the matter and the evidence on record, the District Magistrate, Amritsar, vide order dated 22.03.2018, required the appellants to vacate the accommodation in their occupation within a specified time. Being aggrieved by the said order, the

appellants approached this Court vide a writ petition referred to above, which has since been dismissed.

We have heard learned counsel for the appellants and perused the records.

Concededly, respondents No.2 & 3 happened to be the senior citizens. Upon spot inspection and scrutiny of necessary documents, the Sub Divisional Magistrate-II, Amritsar, vide letter dated 02.01.2018 reported to the District Magistrate that House No.151-152, Tilak Nagar, Amritsar, was indeed owned by respondents No.2 & 3, and was their absolute ownership. The plea that appellant No.1 was running a business, and in terms of the settlement between him and his father he has been handing over his entire income to him, and in lieu thereof half share in the house in question was to be transferred in his favour, remained unsubstantiated for want of any evidence. That being so, the possession of the appellants upon a part of the house was merely permissive in nature or as a licensee subject to the will of respondents No.2 & 3. And once the licence was terminated, possession of the appellants upon the area in their occupation was nothing but forcible and unauthorized. Further, the material on record revealed that respondents No.2 & 3 were mistreated, abused and at times were even beaten by the appellants. As indicated above, respondents No.2 & 3 are recorded to be the absolute owner of the house in the record of rights and the appellants having failed to demonstrate any conceivable interest in the property, the District Magistrate was fully justified to order their eviction. We are also reminded to point out, at this juncture, that post passing of the order dated 22.03.2018, by the District Magistrate, appellant No.1 filed a suit on 30.03.2017 in the Court of Civil Judge (Sr. Divn.), Amritsar, wherein he prayed for a

declaration that he is the owner in possession of the house in question to the extent of half share and has even asked for an injunction. Needless to assert that institution and pendency of the suit would have no bearing upon the proceedings at hands. Though, appellant No.1 is at liberty to pursue the suit he has filed and obtain any relief that he is legally entitled to. On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions arrived at by the District Magistrate as also the learned Single Judge were either contrary to the record or suffered from any material illegality.

Thus, the appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

13.08.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO