

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

**CWP-423-2019 (O&M)
Date of Decision:11.01.2019**

Vinod Kumar & another

... Petitioners

Versus

State of Haryana & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. M.S. Chauhan, Advocate for the petitioners.

...

TEJINDER SINGH DHINDSA, J.

Challenge in the instant writ petition is to the order dated 20.11.2018 passed by the District Magistrate, Ambala (Annexure P-4), whereby an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred to as 'the Act') filed by respondent No.3 has been accepted and the petitioners have been directed to vacate the premises in question within a period of one month from the date of the order.

Petitioners herein are the son and daughter-in-law of respondent No.3.

Counsel for the petitioners has urged before this Court that the impugned order is patently illegal. It is contended that the allegations raised by the father against the present petitioners of harassment and abusive behavior are false and fabricated. Further argued that the application under the Act has been moved by respondent No.3 with an oblique motive and only on the instigation of brother of petitioner No.1. Further submitted that respondent No.3 upon retirement is getting pension of Rs.25,000/- per

month approximately and as such, is financially comfortable.. The impugned order would cause great hardship to the petitioners is yet another submission raised by counsel.

Having heard counsel for the petitioners at length and having perused the pleadings on record, I am of the considered view that the instant petition is bereft of merit and deserves to be dismissed.

Placed on record and appended at Annexure P-1 is the application that respondent No.3 had filed under the provisions of the Act seeking eviction of the petitioners herein from the house/premise in question i.e. House/Plot No.40, Gali No.2, Gagan Vihar, Village Tundla, Ambala Cantt. In the application, it was categorically averred that the applicant had retired as Station Master from the Indian Railways in March, 2015. The plot in question measuring 167 sq. yards was purchased by the applicant/respondent No.3 in the year 2001 vide sale deed dated 21.12.2001 and thereafter construction was effected on the plot from the funds generated by the applicant/respondent No.3 himself as also upon taking home loan from HDFC Bank, Ambala Cantt. It was further averred in the application that apart from the pension, respondent No.3 has no other source of income. He was residing in the premises in question along with his wife and three sons including petitioner No.1. The marriage of petitioner No.1 was solemnized with petitioner No.2 in the year 2008 and thereafter, the petitioners jointly have abused and harassed the applicant/respondent No.3 and his family. The tone and tenor of the application filed by respondent No.3 is that the petitioners had created so much trouble and the applicant was left with no other alternative but to shift out and was accordingly residing in a tenanted

premises bearing House No.120/110, Bihari Lal Building, Railway Road, Ambala Cantt.

Perusal of the impugned order would reveal that the District Magistrate, Ambala had sent a copy of the application moved by respondent No.3 to the Sub Divisional Magistrate, Ambala Cantt for due verification as regards ownership of the plot/premises. A report was duly received that respondent No.3 is the registered owner of the land in question and that a house is constructed on it.

It is by now well settled that if the property is owned by the senior citizen/parents, who are being harassed mentally/physically, the said senior citizen/parent may file an application before the District Magistrate under the provisions of the Act for purpose of seeking eviction. This is precisely what has been done in the present case.

A Division Bench of this Court in **Gurpreet Singh Vs. State of Punjab & others, 2016 (1) RCR (Civil) 324** had held as under:

“12. The petitioner is a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. A licence stands terminated the moment the licensor conveys a notice of termination of a licence. There is no vested right of any kind in the licensee to remain in possession of the property licensed. Admittedly, respondent No.4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respondent No.4 is required to be protected

as mandated by Section 22 of the Act read with Rule 23 of the Rules and para 1 of the Action Plan. There cannot be any effective protection of property of the senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or to restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of which the son is a licensee, such summary procedure will ensure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified.”

The dictum laid down in **Gurpreet Singh's case (supra)** would virtually negate the challenge raised by the petitioners to the impugned order dated 02.11.2018 (Annexure P-4).

No merit.

Dismissed.

11.01.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |