

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

CWP No.1068 of 2019

Date of Decision : 12.09.2019

Mohinder Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

...

Present : Mr.Naveen Sharma, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant writ petition is directed against the order dated 05.10.2018 passed by the Deputy Commissioner-cum-Addl.District Magistrate, Ludhiana (Annexure P-3) and in terms of which the application moved by the petitioner herein under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act') seeking eviction of his son and daughter-in-law from the premises in question has been dismissed.

Counsel would argue that the impugned order is patently illegal and unjust. The petitioner is aged 75 years and as such was vested with the right to enjoy and lead a peaceful life in advanced stage in the house which was under his ownership. Further contended that there is a matrimonial dispute between the son and daughter-in-law and as a direct fall out of the same the petitioner was being harassed and which in turn necessitated the filing of the application seeking eviction. It is urged that such aspect has been completely overlooked while passing the impugned order dated 05.10.2018

(Annexure P-3).

Counsel for the petitioner has been heard at length and the pleadings on record have been perused.

There is no dispute with regard to the factual premise that the application that had been moved by the senior citizen/petitioner herein was against his son as also daughter-in-law. Such application had been instituted on 16.05.2018. Counsel during the course of hearing would concede that much prior thereto a divorce petition had already been filed by the son against his wife. It has also gone uncontroverted that in the proceedings conducted before the Deputy Commissioner-cum-Addl. District Magistrate, Ludhiana, the son had chosen not to appear and accordingly had been proceeded ex-parte. In other words, the application at the hands of the senior citizen can only be seen as a device to turn out the daughter-in-law from the matrimonial home. This Court would have no hesitation in holding that the application of the senior citizen was not bona fide.

That apart, it may be taken note that a report had been sought with regard to verification of ownership of the property from the Sub Divisional Magistrate, Ludhiana. In such report it was recited that the house is a building at a plot measuring 150 sq.yards. The extent of construction and built up area is also indicated in the report. There are two rooms, one drawing room, one small room and kitchen on the ground floor and out of which only one small room is in the possession of daughter-in-law/respondent No.3 herein. That apart, there are two rooms on the upper floor and one of which is also in the

possession of the senior citizen/petitioner herein. It clearly shows that the senior citizen has adequate and enough accommodation in the house in question.

In an overview of the matter, no patent infirmity is found in the impugned order dated 05.10.2018 at Annexure P-3.

Writ petition is dismissed.

12.09.2019
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No