

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-8362-2019 (O&M)
Date of Decision: 14.05.2019

Navneet Kumar

--Petitioner

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. S.S. Sarwara, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Challenge in the instant petition is to the order dated 15.01.2019 (Annexure P-7), passed by the Collector, Ambala whereby an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (herein after to be referred to as the 2007 Act) filed by respondent no.4-Mela Ram, has been accepted and the petitioner has been directed to vacate the premises in question within a period of one month from the date of the order.

Petitioner herein is the son of respondent no.4.

Counsel for the petitioner has urged before this Court that the impugned order is patently illegal. It is contended that the allegations raised by the father against the petitioner of harassment and abusive behaviour are false and fabricated. Further argued that the application under the 2007 Act was moved by respondent no.4 with an oblique motive and only on the instigation of other two brothers of the petitioner. Further submitted that the father/respondent no.4 had availed of a loan at the time of marriage of the sister of petitioner and the same had been repaid by the petitioner. Further urged that the impugned order would create hardship to the petitioner as the petitioner is married and has one minor son and would have

now to seek accommodation elsewhere.

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

Placed on record and appended as Annexure P-3 is the application preferred by respondent no.4 under the provisions of the 2007 Act seeking eviction of the petitioner from the premises in question. In the application it was categorically averred that the applicant/respondent no.4 herein is 74 years old. It has further been averred that the applicant is unemployed and having no means of income. Wife of the applicant is suffering from certain medical issues on account of old age. There is a categorical assertion that the petitioner herein as also his wife resorted to abusive behavior and do not serve the father in any manner.

Perusal of the impugned order would reveal that a report had been called from the Sub Divisional Officer, Ambala for verification as regards ownership of the plot/premises. A report dated 27.6.2018 was duly furnished disclosing that ownership of the house in question is in the name of Mela Ram/respondent no.4. Such factual premise is not even disputed by counsel for the petitioner during the course of hearing.

On a pointed query having been put, counsel has conceded that the petitioner herein is an Engineer and is working with TVS Motors and drawing a gross salary in excess of Rs.70,000/- per month. Under such circumstances, a situation whereby a son inspite of earning a handsome amount is not looking after his parents has to be viewed seriously.

It is by now well settled that if a property is owned by senior citizen/parents and who are being harassed mentally/physically, the said

senior citizen/parent may file an application before the District Magistrate under the provisions of the 2007 Act for purposes 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 15.1.2019 (Annexure P-7).

No merit, petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

14.05.2019

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No