

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

CWP No.9377 of 2019 (O&M)
Date of decision:-09.05.2019

Ashwani Kumar and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

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

Present:- Mr. Kawaljyot Singh, Advocate for the petitioners.

Mr. Sahil Sharma, DAG, Punjab.

Mr. Gursimran S. Madaan, Advocate for respondent No.3.

TEJINDER SINGH DHINDSA, J.(ORAL)

Mr. G.S. Madaan, Advocate has entered appearance on behalf of
contesting respondent No.3 and has filed his power of attorney.

The present writ petition is being taken up for final disposal
today itself with the consent of the counsel for the parties.

Challenge in the instant petition is to the order dated 23.01.2019
passed by the District Magistrate Jalandhar (Annexure P-10) and in terms
of which the present petitioners have been directed to be evicted from the
premises in question.

During the course of arguments, it has gone uncontroverted that
the application that had been moved by the Senior Citizen/respondent No.3
was under Section 23 (1) of the Maintenance and Welfare of Parents and
Senior Citizen Act, 2007. Subsequently an application was made on

16.01.2019 seeking amendment of the petition/complaint and raising a prayer that the same be considered under Section 22 of the Act.

Mr. Madaan, learned counsel representing respondent No.3 would fairly concede that even without passing any formal order on the amendment application and thereby without even permitting the amendment and for the application to be treated under Section 22 of the Act, the impugned order of eviction had been passed.

A very fair stand has been taken on behalf of respondent No.3 that under such peculiar circumstances, the impugned order of eviction dated 23.01.2019 (Annexure P-10) be set aside and the matter be remanded back to respondent No.2 for an order to be passed on the application seeking amendment and thereafter on merits.

Counsel representing the petitioners also does not oppose such course of action to be followed.

In view of the above and without examining the case on merits, writ petition is allowed. Order dated 23.01.2019 at Annexure P-10 passed by the District Magistrate, Jalandhar, is set aside.

Matter is remanded back to respondent No.2/District Magistrate, Jalandhar, to adjudicate upon the application seeking amendment in the application that has been filed by respondent No.3 in accordance with law and after giving a realistic and effective opportunity of hearing to the petitioners and to thereafter decide the lis between the parties.

Writ petition is disposed of in the aforesaid terms.

It is reiterated that this Court has not opined on the merits of the case.

Suffice it to observe that since the application/petition is with regard to eviction of the premises at the hands of the Senior Citizen,/respondent No.3, would be obligated to expedite proceedings.

(TEJINDER SINGH DHINDSA)
JUDGE

09.05.2019

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No