

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 782 of 2019
Date of decision: 22.04.2019

Shiv Kumar and another

... Appellants

Versus

District Magistrate, Gurugram and another

... Respondents

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

Present: Mr. Lupil Gupta, Advocate, for the appellants.

ARUN PALLI, J.

This is an *intra Court* appeal under Clause-X of the Letters Patent, against an order and judgment dated 19.03.2018, rendered by the learned Single Judge, whereby the writ petition preferred by the appellants has since been dismissed.

Respondent No.2-Ram Charan, who happens to be the father of appellant No.1 and father-in-law of appellant No.2, moved the District Magistrate, Gurugram, vide an application under Section 22(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and Rule 24 of the Rules 2009 read with Action Plan notified by the Government of Haryana on 26.05.2015. In brief, the case set out by him was that he was a senior citizen and an exclusive owner of house No.2119/3, Rajeev Nagar, Gurugram, Haryana. He along with his wife and daughter was residing on the first floor of said house, whereas the

appellants herein were in occupation of the ground floor. But, for he was maltreated, and continuously tortured by the appellants, he prayed for their eviction.

In defence, the appellants pleaded that the demised premises was purchased from the funds that came from the ancestral agricultural land and therefore, respondent No.2 could not claim to be the exclusive owner thereof. The allegations set out in the application against the appellants were denied and were stated to be false and concocted.

Upon a consideration of the matter, the District Magistrate concluded that the report dated 12.12.2017, submitted by SDO (C), Gurugram-North, proved that the house was exclusively owned by respondent No.2. The plea that the demised premises was purchased with the amount earned from the ancestral agricultural land remained unsubstantiated for want of any evidence. Nothing was brought on record either to show if a part of the sale consideration was paid by the appellants. For, they were in possession of the house as licensee, which was terminated, they were left with no right to continue in possession. Accordingly, vide order dated 18.01.2018, their eviction was ordered and they were required to vacate the portion in their possession within a month.

Being aggrieved, the appellants assailed the order dated 18.01.2018, vide a writ petition, referred to above, which too has since been dismissed. Thus, this appeal.

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

Ex facie, the learned Single Judge upon a consideration of the matter and material on record reached a conclusion that there was hardly any dispute as regards ownership of respondent No.2, qua the house in question. Even otherwise, nothing to the contrary was brought on record. On being pointedly asked, learned counsel for the appellants fails to show if the appellants had any right, title or interest in the house in question. There was not any dispute either that respondent No.2 happened to be the senior citizen. His grievance has been that not only he was mal-treated by the appellants but he and his wife had been even beaten by them on many occasions. Not just that in execution of the order dated 18.01.2018, passed by the District Magistrate, Gurugram, the appellants have since been evicted. We are reminded to point out that even the appeal is barred by almost a year, which shows post decision by the learned Single Judge the appellants were not inclined to pursue the matter any further, and thus, the appeal appears to be speculative in nature.

Be that as it may. In the wake of the above, we too are dissuaded to interfere with the order passed by the District Magistrate as also the impugned order and judgment. Thus, the appeal being devoid of merit and is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

22.04.2019

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No