

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

CWP No.11592 of 2019 (O&M)

Date of decision:-03.05.2019

Paramjit Singh and another

.....Petitioners

versus

The Additional Deputy Commissioner (G)-cum-Additional District
Magistrate Ludhiana and another

.....Respondents

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

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

TEJINDER SINGH DHINDSA, J.

Challenge in the instant petition is to the order dated 07.12.2018 (Annexure P-6) passed by the Additional Deputy Commissioner (G)-cum-Additional District Magistrate, Ludhiana and in terms of which an application moved by respondent No.2 herein under the provisions of the Maintenance and Welfare of Parents and Senior Citizen Act 2007 (hereinafter to be referred to as the '2007 Act') has been allowed and the petitioners have been directed to be evicted from the premises in question.

Petitioners herein are the son and daughter-in-law respectively of respondent No.2.

Counsel submits that the application was moved by the senior citizen/parent at the instigation of the elder brother of the petitioner as he is a very clever and greedy person. Further urged that the allegations made by the father as regards harassment etc. are completely false. It has been vehemently argued that the application had been moved by respondent No.2 under Section 23 of the 2007 Act and which could have been

adjudicated upon only by a Tribunal and not by the District Magistrate. Accordingly, it is urged that the impugned order passed by the Additional Deputy Commissioner-cum-Additional Magistrate, Ludhiana, lacks jurisdiction.

Counsel has been heard at length and the case paper-book has been perused.

Undoubtedly, the application that had been moved by respondent No.2 was under Section 23 of the 2007 Act. However, it is not the caption of the application but the contents thereof which would be relevant. Perusal of the application at Annexure P-5 would clearly show that the father/Senior Citizen was seeking eviction of the petitioners herein from the residential premises in question. He was not seeking cancellation of any transfer-deed. Under such circumstances, the application in question had to be dealt with by treating the same to have been filed under Section 22 of the 2007 Act. The argument raised by learned Counsel that the application filed by respondent No.2 should have been tried by the Tribunal is totally fallacious. In Section 22 of the 2007 Act, there is no word as “**Tribunal**” used by the Legislature. Rather the word “**Tribunal**” is used under Section 23 of the Act and would deal with the situation where a senior citizen is seeking to declare void the gift-deed or the transfer of the property if the person to whom the property is transferred has refused to provide him/her amenities and other physical needs. Insofar as application for seeking eviction from the property of the senior citizen is concerned, the same has to be dealt with only by the District Magistrate and as per procedure. To such extent no infirmity is found in the impugned order.

Perusal of the impugned order would reveal that the senior citizen claimed himself to be 89 years of age. He claimed himself to be owner in possession of the house measuring 100 sq. yards bearing No.42/3 situated at Shaheed Bhagat Singh Nagar, Ludhiana. It was categorically averred that the afore-noticed property had been purchased by the senior citizen vide sale-deed bearing Vasika No.1574 dated 13.09.1995. The afore-noticed factual premise is not even disputed by the petitioners herein.

There were specific allegations made by the parent as regards having been abused and harassed by the petitioners herein.

The impugned order directing ejectment of the petitioners herein is in terms of the laudable object enshrined under the '2007 Act' whereby a senior citizen/parent who is being ill-treated by his own children in the twilight of his life can seek their eviction from the premises that he/she owns. The petitioners herein did not have any vested right to occupy the premises in question and can at best to be termed as licensees.

That apart it would be seen that prior to passing of the impugned order, due notice of the proceedings was given and adequate opportunity was also granted.

For the reasons recorded above, no interference in the matter is warranted.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

03.05.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No