

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

CWP No.10706 of 2019

Date of Decision : 27.08.2019

Boota Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

...

Present : Mr.L.S.Lakhanpal, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Instant writ petition is directed against the order dated 25.01.2019 passed by the Additional Deputy Commissioner-cum-Additional District Magistrate, Ludhiana and in terms of which an application moved under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act') by the mother has been allowed and the petitioner herein has been directed to be evicted from the premises in question.

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 mother against the petitioner of harassment and abusive behaviour are false and fabricated. Further argued that the application moved by the senior citizen/parents under the provisions of 2007 Act was with an oblique motive and on the instigation of other siblings. It has further been urged that the impugned order would create extreme

hardship for the petitioner as he is married and is the father of a son and three daughters and would have to now seek an accommodation elsewhere.

Having heard learned 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 merit and deserves to be dismissed.

A perusal of the impugned order would reveal that in the application that had been moved by the mother, she had clearly stated that she was about 80 years of age and that her son is out of her control. Even the daughter-in-law maltreats her. Further categorical averment made in the application was that the mother in the twilight of her life has been turned out of the house and forcible possession of the house has been taken.

The impugned order would also reveal that a report with regard to ownership of the property had been sought. As per such report, owner of the property was Gurdev Singh i.e. father of the petitioner, who has since died. The house is situated within the Lal Lakeer of the village in question. Such report is not even disputed by the counsel for the petitioner during the course of hearing.

It is by now well settled that if a property is owned by a senior citizen/parents, who is being harassed mentally/physically, such senior citizen/parents may file an application under the provisions of 2007 Act for the purpose 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 petitioner to the impugned order dated 25.01.2019 (Annexure P-1).

No merit.

Petition is dismissed.

27.08.2019
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No