

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

CWP No.12159 of 2019

Date of decision : 8.5.2019

Vijay Kumar Nanda and another

...Petitioners

Vs.

**The Tribunal Constituted under the Maintenance and Welfare of
Parents and Senior Citizens Act and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Abhinav Kalia, Advocate for the petitioners.

TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant writ petition is to the order dated 5.4.2019 (Annexure P-7) passed by the District Magistrate, Ambala whereby an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred to as 'the Act') filed by respondent No.2 has been accepted and the petitioners herein have been directed to vacate the premises in question within a period of 30 days from the date of order.

Both the petitioners herein are the sons of respondent No.2.

Counsel for the petitioners has urged before this Court that the impugned order is patently illegal. It is contended that the allegations raised by the mother-respondent No.2 against the present petitioners of harassment and abusive behaviour are false and fabricated. Further

argued that the application under the Act was moved by respondent No.2 with an oblique motive and only on the instigation of another brother, namely, Pramod. Further submitted that both the petitioners have been residing in the premises in question since the last almost four decades and the order of eviction as such would have severe and extreme consequences.

Having heard counsel for the petitioners 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.

Place on record appended as Annexure P-4 is the application that respondent No.2 had filed under the Provisions of the Act seeking eviction of the petitioners herein from the premises/house in question. In the application, it was categorically averred that the applicant is 95 years of age. There are specific and categorical averment that the applicant i.e. the mother has been subjected to maltreatment and abusive behaviour by the petitioners on the threat that ownership of the property in question be transferred in their names. Respondent No.2 had further asserted that her sons i.e. the petitioners herein do not serve her in any manner.

Perusal of the impugned order would reveal that the District Magistrate had sent a copy of the application moved by respondent No.2 to the Sub Divisional Officer (Civil) Ambala City for due verification as regards ownership of the property in question. It has not been controverted that a report was duly received duly verifying that respondent No.2 is the registered owner of the property/premises.

It is by now well settled that if the property is owned by the

Senior citizen/parent and who is being harassed mentally/physically, the said senior citizen/parent may file an application before the District Magistrate under the provisions of the 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 Versus State of Punjab and others, 2016(1) RCR(Civil) 324*** had observed 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 5.4.2019 (Annexure P-7).

No merit.

Dismissed.

The instant order was dictated in open Court. Counsel having taken a chance and confronted with an order of dismissal would at such stage interject to submit that he has instructions to pray for withdrawal of the writ petition. He only seeks indulgence for reasonable time to be granted to comply with the impugned order dated 5.4.2019.

Even though such a request being made at this stage may be construed as not proper and unfortunate still keeping in view the interest of the parties, prayer is allowed.

By recording statement of the counsel that the petitioners have given up their right to challenge the impugned order of eviction dated 5.4.2019 a time period of 60 days from today is granted to the petitioners to vacate the premises in question. Such time frame and indulgence is being granted to the petitioners without even issuing notice to respondent No.2 so as to obviate any further delay in the matter as also to avoid burden of cost of litigation upon her.

The writ petition is disposed of in the above said terms.

Order dated 5.4.2019 (Annexure P-7) stands affirmed.

8.5.2019
Meenu

(TEJINDER SINGH DHINDSA)
JUDGE

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