

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

**CWP-17197-2019 (O&M)
Date of Decision:14.08.2019**

Anuj	Versus	... Petitioner
State of Haryana & others		... Respondents

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

Present:- Petitioner in person.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant petition is to the order dated 09.05.2019 (Annexure P-5) passed by the District Magistrate, Gurugram whereby an application filed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as 'the 2007 Act') filed by respondent No.3/Smt. Sarla Kalra has been accepted and the petitioner has been directed to vacate the premises in question within a period of one month from the date of order.

Petitioner herein is the son of respondent No.3. He appeared in person and has been heard at length. Case paper book has also been perused.

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 as also his wife as regards harassment and abusive behaviour are false and fabricated. Further submitted that the petitioner has always been a dutiful son and has looked after his mother/respondent No.3. Petitioner further submits that his mother is 73 years of age and being a cancer patient, all the expenses towards treatment/surgery etc. were paid by him. Yet another submission raised is that the impugned order would create a hardship for the petitioner as he is married and has two minor children

and would now have to seek accommodation elsewhere.

Having heard petitioner in person, this Court is of the considered view that no intervention in the matter is called for.

Placed on record and appended at Annexure P-1 is the application/complaint that had been preferred by the senior citizen/parent under the provisions of the 2007 Act seeking eviction of the petitioner herein as also his wife from the premises in question. In the application, it was categorically averred that the applicant/respondent No.3 is 76 years old and is a widow. It was further stated that husband of the applicant had purchased a residential house ad measuring 286 square meters in Sector 23, Urban Estate Gurugram and the same was transferred in the name of the applicant vide Vasika No.16203 dated 09.09.2016 registered with the Sub Registrar, Gurugram. Respondent No.3 herein being the sole title holder of the premises/property in question is not even disputed by the petitioner, namely, Anuj.

In the application that had been moved by the senior citizen/parent, there are allegations with regard to she being forcibly turned out from the residential house and the wife of the petitioner having given beatings to her.

It is by now well settled that if a property is owned by the senior citizen 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 2007 Act for 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 has 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 09.05.2019 (Annexure P-5).

There is yet another aspect which has weighed with this Court while upholding the order of eviction and declining to interfere.

During the course of hearing, petitioner had himself offered that he is ready and willing to enter into mediation and to have an amicable settlement with his mother. As regards such submission certain queries were put to the petitioner and to which he has responded by submitting that he is working as a Regional Head with a private bank i.e. IndusInd Bank at Gurugram. He further submitted that even his wife is in employment and is working with a travel company.

This Court during the course of hearing had suggested certain terms and conditions to the petitioner i.e. for Rs.25,000/- to be paid to the mother towards litigation costs and Rs.20,000/- to be paid each month to the mother during the pendency of the writ petition.

Such conditions are not acceptable to the petitioner. This in itself would caste a serious doubt as regards the bonafides of the petitioner in relation to the stand taken that he has always looked after his mother.

There is no merit in the petition and the same is dismissed.

14.08.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |