

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-18985-2019 (O&M)
Date of Decision: 16.07.2019

Rajesh

--Petitioner

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. Ambanshu Sahni, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Challenge in the instant petition is to the order dated 17.7.2018 (Annexure P-1) passed by the Deputy Commissioner, Ambala and in terms of which an application moved by respondent no.3 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, 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.3.

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 present petitioner as also his wife as regards harassment and abusive behavior are false and fabricated. Further argued that the application made under the Act by the mother was with an oblique motive and only on the instigation of the other siblings i.e. brother and sister of the petitioner. Yet another submission raised is that the petitioner is doing a private job and on a meager salary and the impugned order would cause great hardship inasmuch as the petitioner would have to look for alternate accommodation for his wife and children. One last submission raised by counsel is that during the course of proceedings before the Deputy

Commissioner, Ambala the report that had been called for and submitted by the Sub Divisional Magistrate concerned, had not been furnished to the petitioner. No other point was urged.

Having heard 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 merits and deserves to be dismissed.

Placed on record and appended as Annexure P-3 is the application that had been filed by the mother/respondent no.3 under the provisions of the Act seeking eviction of the petitioner herein from the house/premises in question. In the application it was specifically pleaded that the applicant is about 62 years of age and a widow. The plot upon which the construction had been raised had been purchased by the senior citizen with her own funds. There are categorical averments that her son i.e. the present petitioner has no respect towards her and has physically abused the applicant on a regular basis. A specific incident that is stated to have occurred on 18.8.2012 has been cited and it was alleged that the parent had been mercilessly beaten up by the petitioner and pursuant to which even the medical examination had been conducted at Civil Hospital, Ambala Cantt. and even a complaint had been lodged with the police.

Perusal of the impugned order would also reveal that a report from the Sub Divisional Officer, Ambala City had been called for and in pursuance to which a report dated 23.2.2018 had been submitted recording that ownership of the premises in question was with the mother/senior citizen.

It is by now well settled that if a property is owned by senior citizen/parents and who are 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 purposes 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 17.7.2018 (Annexure P-1).

The submission raised by counsel as regards report of the S.D.O., Ambala City having not been supplied to the petitioner would not have any consequence. It is so being observed as counsel during the course of hearing today would concede that the ownership of the property/premises in question does vest in the mother/senior citizen. No prejudice, as such, has been caused to the petitioner on account of non-supply of the report even if the contention raised by counsel is taken to be factually correct.

In view of the reasoning furnished herein above, no infirmity is found in the impugned order at Annexure P-1.

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

16.07.2019
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No