

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

CWP No.15687 of 2018 (O&M)
Date of decision: January 28, 2019

Jamuna Devi alias Jyoti & others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Raman Gaur, Advocate for the petitioners.
Mr. Saurabh Mohunta, DAG, Haryana.
Mr. Manik Ahluwalia, Advocate for
Mr. G.S. Dhaliwal, Advocate for respondent No.3.

Rajan Gupta, J.

Petitioners pose a challenge to order dated 08.05.2018, passed by District Magistrate, Faridabad, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Rameshwar Dass Rathore (respondent No.3 herein), has been accepted and petitioners have been directed to vacate the house in question.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. According to him, petitioner No.1, who is daughter of respondent No.3, is a widow lady having three children. After death of her mother, petitioners have been looking after respondent No.3. Thus, the order of eviction deserves to be set-aside.

Plea has been opposed by counsel appearing for respondent No.3. According to him, the property in question is his self-acquired property and petitioners want to grab the same, the Tribunal has rightly evicted the

petitioners from the house in question.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Brief factual matrix of the case is that Rameshwar Dass Rathore, who is senior citizen being about 84 years of age, filed an application under Section 22 (2) of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the petitioners, seeking their eviction from his residential house, bearing No.1175, Sector 9, Faridabad. He had permitted her elder daughter Jamuna Devi alias Jyoti alongwith her children to live in his house. However, after some time they started harassing and humiliating him and did not even provide him food and even tried to stop him from entering his own house by raising various unlawful threats. Paras 3, 4 & 5 of the application filed by respondent No.3 are reproduced as under:-

“3. That from last two years respondent No.1 alongwith respondents No.2 & 3 are ill-treating me. Everyday they abuse me orally and physically both. This is despite of the fact that I was sharing a piece of my pension with them.

4. That for more than 100 times she slapped me in front of other two respondent since last 6 months. She physically abuses me by beating me. She has even snatched my gold ring and gold chain forcefully. Many other valuable things are also missing from my almirah.

5. That despite of giving her money at my own wish, my mercy and grace, she has expressly denied to give me food. Everyday I have to go outside by walking kilometers to have some food so that I can survive. That at this age I am very weak and most of the times I remain ill.”

After considering entire material on record, and obtaining report from the Sub Divisional Magistrate, Faridabad to the effect that property in question belongs to respondent No.3, the District Magistrate allowed the application filed by respondent No.3 and directed the petitioners to vacate the said house.

I find no infirmity with the order. It appears that respondent no.3, who is quite old, permitted his daughters and her children to reside in his house to serve him in his old age. However, they started harassing and humiliating him. In judgment reported as ***Gurpreet Singh vs. State of Punjab and others, 2016 (1) R.C.R. (Civil) 324***, a Division Bench of this court 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.”

In view of above, I am of the considered view that the pleas raised before this court are without any merit. Same are hereby rejected. Petition is hereby dismissed.

January 28, 2019
'Rajpal'

Whether speaking / reasoned

Whether Reportable:

(RAJAN GUPTA)
JUDGE

Yes / No

Yes / No