

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

CWP No.19873 of 2019 (O&M)

Date of Decision:23.10.2019

Neha Gupta

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. L.S. Mann, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.

Challenge in the instant petition is to the order dated 26.03.2019 (Annexure P-2) passed by the Collector, Ambala and whereby an application under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (hereinafter to be referred to as 2007 Act) filed by respondents No.3 and 4 herein has been accepted and the petitioner has been directed to vacate the premises in question within a period of 30 days from the date of the order. Petitioner herein is the daughter-in-law of respondent Nos.3 and 4.

Counsel for the petitioner has urged before this Court that the impugned order is patently illegal. It has been argued that the petition under Section 22 of the 2007 Act, would be maintainable only against the son, daughter or relative/legal heir of the senior citizen. The term relative is stated to be defined under Section 2 (g) of the 2007 Act. Submission raised is that the petition/application for eviction was not maintainable against a daughter-in-law. Second submission raised by counsel is that the petitioner had initiated proceedings under the Domestic Violence Act 2005 and under which every women is vested with the right to reside in a shared household and such aspect

has been completely ignored while passing the impugned order. Yet another submission raised by counsel is that the relief sought by the Senior Citizen was to be paid a sum of Rs.10,000/- per moth towards maintenance whereas eviction has been directed vide impugned order.

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 wholly misconceived and deserves to be dismissed.

The argument as regards proceedings for eviction under the Act being not maintainable against the daughter-in-law would not be available in the present case. During the course of hearing counsel has fairly conceded that petitioner is in a happy matrimonial alliance with her husband i.e. son of respondents No.3 and 4 herein. The impugned order directs eviction of both the son and daughter-in-law. This Court would view such an order of eviction against a composite family comprising of husband, wife and children as the case may be. This Court would be constrained to observe that it is a clever ploy adopted by the petitioner i.e. daughter-in-law to have filed the instant petition and by impleading her husband only as a proforma respondent. The eviction of the son has also been directed. Strangely, he has chosen not to assail the eviction order inspite of being in a healthy matrimonial relationship with his wife. In any event, it is not the case of the petitioner that her husband has connived with his own parents so as to oust the daughter-in-law from the matrimonial home by way of filing the eviction petition under the Act.

The factum of having initiated proceedings under the Domestic Violence Act would also not come to the rescue of the petitioner. In this regard it may be seen that the petition for eviction had been initiated by the Senior Citizen on 11.05.2018 whereas the application under Section 12, 18, 19, 20 &

only on 7.12.2018. The same can only be seen as an afterthought.

The contention raised by counsel that the application by the Senior Citizens was towards securing maintenance and whereas eviction has been directed is without merit. Copy of the application has been appended as Annexure P-1. The primarily relief sought in the application was for issuance of directions to the son and daughter-in-law to vacate and hand-over the possession of House No.2387, Ram Bagh Road, Ambala Cantt. to the applicants/Senior Citizen. The prayer for a sum of Rs.10,000/- per month to be paid was only in the alternate and till the vacation of the house.

That apart perusal of the impugned order would reveal that the respondent authority had satisfied itself as regards ownership of the premises in question and the same to be in the name of the senior citizens. Such factual premise is not even disputed by counsel for the petitioner during the course of hearing. It is by now well settled that if a property is owned by the Senior Citizen/Parents and who are being harassed mentally/physically, the said senior citizen/parent may file an application 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 26.03.2019 (Annexure P-2).

No merit, petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

October 23, 2019
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