

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

CWP No.4523 of 2018.

Date of Decision: 09.05.2019

Ashok Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. M.S. Longia, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

Mr. Amit Bhanot, Advocate,
for respondent No3.

JITENDRA CHAUHAN J.

Through the instant civil writ petition, the petitioner seeks quashing of order dated 08.11.2017 (Annexure P-6) passed by respondent No.2 vide which the petitioner has been ordered to be evicted from the house bearing plot No.110 situated at Gurbachan Singh Marg now Shastri Nagar, Kurali road, Rupnagar, Tehsil and District Rupnagar, Punjab.

The mother of the petitioner had purchased plot No.110 situated at Gurbachan Singh Marg now Shastri Nagar, Kurali road, Rupnagar, Tehsil and District Rupnagar, Punjab and thereafter constructed the house on the said plot and the petitioner also contributed from his own income in this regard. The mother of the

petitioner died on 25.07.1992 and thereafter the mutation of the house was sanctioned in the name of the petitioner along with other heirs excluding the name of respondent No.3, father of the petitioner. Thereafter the petitioner has been continuously residing in the said house since 1992. The petitioner had started living separately from respondent No.3 on account of his (latter's) intimacy with one Savitry Devi. The act and conduct of respondent No.3 was objected to by other family members including his brothers and sister. Respondent No.3 has filed many complaints against the petitioner and his family members. Thereafter, a petition under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short "the Act") (Annexure P-4) was filed by respondent No.3 for evicting the petitioner out of the house in question. Vide order dated 08.11.2017 (Annexure P-6) passed by Additional Deputy Commissioner, the petitioner was directed to vacate the portion of the said house within 30 days.

It is contended that the object of the Act is to protect life and liberty of senior citizens and also to protect his property from unauthorized occupation. In the instant case, the question involved is whether the petitioner is in unauthorized occupation of the house in question. In fact, the house in question was mutated in favour of the petitioner after the death of his mother, namely, Gurmeet Kaur. The petitioner is in occupation of the house since 1992 on the basis of inheritance and therefore, his possession cannot be termed as

unauthorized possession.

More so, a civil litigation between the parties is pending in which the petitioner has challenged the Will dated 31.05.1992 in favour of respondent No.3 and has claimed right in the property left by deceased Gurmeet Kaur on the basis of inheritance. The matter is pending adjudication in RSA No. 4659 of 2017.

On the other hand, it is contended that the house in question was purchased by respondent No.3 with his own income. The petitioner was matriculate in the year 1986. The petitioner had joined as Fitter with a private firm on daily wages on 27.03.1997 and till date he is working on daily wages only. The wife of the petitioner was also a house wife. She was not earning anything and was completely dependent upon respondent No.3. Respondent No.3 had purchased the house in the name of his wife from his own income and the petitioner had made no contribution in the purchase of said house. The behaviour of the petitioner was not good with Gurmeet Kaur, therefore, she had executed a Will dated 31.05.1992 in favour of respondent No.3. Respondent No.3 had allowed the petitioner to stay in a portion constructed in the courtyard of the house in question. The petitioner and his wife gave severe beatings to respondent No.3.

Heard.

A perusal of the record reveals that the house in question was purchased by respondent No.3 with his own income. The petitioner is working on daily wage basis. Respondent No.3 does not

want to keep the petitioner in his house as the behaviour of the petitioner is not good. This Court does not find any infirmity in the impugned order dated 08.11.2017 (Annexure P-6) vide which the petitioner has been directed to vacate the house.

No ground for interference is made out.

Dismissed.

09.05.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

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