

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

CWP No.8681 of 2017 (O&M)
Date of Decision:24.9.2019

Rampati ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.R.Hooda, Advocate for the petitioner

Mr.Saurabh Mohunta, DAG, Haryana

Mr.Vivek Khatri, Advocate for respondent no.3

RAJIV NARAIN RAINA, J. (Oral)

1. This case relates to proceedings taken under Sections 22 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 initiated by the petitioner against her daughter-in-law, respondent no.3 who was widowed when the petitioner's son Mandeep died of tuberculosis on 27.8.2014, by praying in the Court of Sub Divisional Officer (Civil)-cum-President, Maintenance Tribunal, Sonapat (for short "the Tribunal") to evict her daughter-in-law, the third respondent from the house and to regain possession of her entire property.

2. On facts, the petitioner stated in her application presented to the Tribunal that the marriage of her son Mandeep with Jyoti, respondent no.3 was solemnised on 22.7.2007. They both resided with the petitioner in her house as licensees. After the death of Mandeep, Jyoti filed an application under the Domestic Violence Act against her

mother-in-law i.e. the petitioner and her husband i.e. father-in-law levelling false allegations against them wherein proceedings are still pending in the court at Sonapat. She says that on the death of Mandeep, a Panchayat was convened wherein an oral compromise was effected by which Jyoti had agreed to stay at her parental house for a period of two months, but instead of two months, she came back only after 10 days without permission and in the absence of other family members to the house of the petitioner by breaking open the lock of the main door. The petitioner revoked Jyoti's licence and requested her to vacate the premises, but she refused to do so. The petitioner filed suit for mandatory injunction praying for a decree against Jyoti to hand over the actual physical and vacant possession of the house owned by the petitioner which is pending. The petitioner is a Sr. Citizen and this is what brought her in parallel proceedings before the Tribunal for eviction of Jyoti.

3. The Tribunal being an authority closest to the facts heard parties and by a detailed order dated 24.11.2016 (Annex. P-1) dismissed the application keeping in view the case propounded by the widow on her behalf and on behalf of her 8 year old daughter.

4. The Tribunal found the following facts against the petitioner and in favour of Jyoti; Firstly, that the house was in the ownership of petitioner-Rampati, mother-in-law of Jyoti. Her husband died and ceased to be the sole owner of the property. The petitioner had got the electric connection disconnected and had proposed to sell the house. Jyoti was unemployed and had no source of income. Her daughter was school going. The school expenditure is born by her side of the family, although the liability falls on the petitioner which is not

being discharged. Jyoti urged that after the death of her husband, she and her daughter have right of inheritance on which she stands to protect her rights and the rights of her child.

5. The Tribunal found that earlier the complainant/petitioner resided on the ground floor and 2nd floor and the daughter-in-law occupied the first floor of the house in question. Two years prior to the complaint and for the past two years, petitioner and her husband are residing in village Bindroli which is far away from the demised premises. Therefore, the ground floor and the second floor of the house are vacant. Evaluating all the factors available to him and upon hearing both the parties, the Tribunal was of the view that Jyoti has a share in the property as per law and at the same time she is a widow with a 8 year old daughter to maintain. In the circumstances, evicting her from the house would not only be unfair, but would also be illegal because Jyoti had no objection in case the other side resides in the ground and second floors of the house in question. The petitioner has another house and agricultural land in village Bindrauli. Hence the Tribunal was right in recording that it was wrong on the part of the petitioner to say that there is no house with her to live in. The petitioner is a retired government employee and receives pension. Therefore, the claim put forth by her seems not to be genuine. On these premises, the application has been rejected and the complainant directed not to evict respondent-Jyoti from the house and not to sell it without arranging appropriate residence for the respondent-Jyoti.

6. I have absolutely no reason to tinker with the well reasoned and justly balanced order dated 24.11.2016 (Annex. P-2) passed by the Tribunal. It is not for the writ court to reappricate the

evidence and take a different view on the same evidence and facts from the conclusions recorded by the Tribunal.

7. In view of the above, I find this writ petition to be devoid of merit and the same is hereby dismissed with costs of ₹ 25,000/- to be paid by the petitioner to the grand-daughter i.e. the daughter of respondent Jyoti to defray partially expenses of her education and daily needs. The amount of ₹ 25,000/- shall be paid to respondent-Jyoti in the suit pending in Sonapat filed by the petitioning mother-in-law on the next date of hearing. In case the amount is not paid, the trial court is directed not to proceed with the suit of the petitioner.

24.9.2019
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes/No