

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

**CWP-26060-2019 (O&M)
Date of Decision:16.09.2019**

Sumit Arora

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present:- Mr. S.S. Kainth, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant writ petition is to the order dated 13.10.2017 passed by the Additional Deputy Commissioner-cum-Additional District Magistrate, Khanna (Annexure P-1), whereby an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (herein after to be referred to as 'the 2007 Act') jointly filed by respondent No.5 and his wife, namely, Renu Arora (since deceased) has been accepted and the petitioner has been directed to vacate the premises in question within a period of one month from the date of passing of the order.

Petitioner herein is the son of respondent No.5.

Counsel for the petitioner has argued before this Court that the impugned order is patently illegal. It is contended that the allegations raised by the father against the petitioner of harassment and abusive behaviour are false and fabricated. Further urged that mother of the petitioner who was owner to the extent of 50% of the property in question never supported the application and prayer seeking eviction. It is contended that the application under the 2007 Act had been moved by the father with an oblique motive and only on the instigation of brother of the petitioner.

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 merit and deserves to be dismissed.

There is no dispute as regards the fact that the application seeking eviction of the petitioner had been moved jointly by the parents i.e. respondent No.5 herein/father as also the mother, namely, Renu Arora. In the application, it had been specifically averred that the petitioner herein had fallen in bad company and on account of his bad habits, his wife had also left his company and has divorced him. Further allegations are that the petitioner herein had been threatening his parents to transfer the property in his favour or else they would be eliminated. There were specific allegations that the petitioner is habitual of giving beatings to her parents and using abusive language and on account of which the parents had disowned the son.

Perusal of the impugned order would reveal that a report had been sought from the Sub Divisional Magistrate, Ludhiana (West) with regard to the ownership of the property. As per report duly received, it had been recorded that the property in question is in the joint ownership of the parents.

It is by now well settled that if a property is owned by the senior citizen/parent, 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.

The contention raised by counsel that the mother i.e. Renu Arora and who was owner to the extent of 50% of the property had not

supported the application seeking eviction is not well founded. Perusal of the impugned order dated 13.10.2017 clearly reveals that both the applicants i.e. parents had duly appeared and had reiterated the contents of the application.

Yet another submission raised by counsel that the petitioner had not been served with a copy of the application and as such was not a party to the proceedings under the 2007 Act and which have led to the passing of the eviction order, the same is also without merit. In the impugned order itself, it has been recited that notice having been issued to Sumit Arora (petitioner herein), he had refused to accept the notice.

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' case (supra)** would virtually negate challenge raised by the petitioner to the impugned order dated 13.10.2017 (Annexure P-1).

It may also be taken note of that even though the eviction order was passed on 13.10.2017, yet the petitioner had not vacated the premises as of date. Unfortunately, his mother has died in the interregnum i.e. on 25.09.2018. The poor lady has been denied even the benefit of the order of eviction. This in itself reflects poorly on the conduct of the petitioner.

There is no merit in the instant petition and the same is dismissed.

16.09.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |