

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-:-

LPA No. 2011 of 2017 (O&M)

Date of decision: 04.02.2019

Dilip Kumar Kansal & Anr.

... Appellants

Vs.

D.M Union Territory, Chandigarh & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Ramesh Sharma, Advocate, for the appellants.

Mr. Anuj Raura, Advocate, for respondent No.2.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge, dated 28.08.2017, while upholding the order of the District Magistrate under the provisions of Section 21 and 22 of the Maintenance of Parents and Senior Citizens Rules 2007, the learned Single Judge declined interference in the order of the District Magistrate by noticing the facts which we intend to reproduced from the impugned judgment:-

“ It appears, respondent No.2, who is 73 years of age, filed application under Sections 21 and 22 of the Maintenance of Parents and Senior Citizens Rules, 2007 seeking protection of life and property from the petitioners, stating that she was residing with her younger son Sandeep Gupta and his wife. Petitioners along with their two children also reside in the same house No.3219, Sector 37-D, Chandigarh at first floor. Her younger son got married in the year 2008. Thereafter, mother was subjected to harassment, even physically tortured.

Several times complaints were also made to the police. Petitioners shifted AC from first floor to the room on ground floor and respondent No.2 kept on paying the electricity bill. Ultimately, Applicant/ respondent No.2 filed an application before the authority under the Maintenance and Welfare of Parents and Senior Citizen Act against the petitioners. After considering the entire issue and examining the documents, the authority directed the petitioners to clear front courtyard immediately, unlock the front left side gate and clear the passage also. They were further directed to vacate front side room on the ground floor. The petitioner No.1 was also directed to repay back the electricity charges of the front side room w.e.f. 31.01.1998 till date.”

During the course of arguments learned counsel for the appellant contended that he has a civil Court decree in his favour entitling him to 1/3rd share. He concedes that first floor of the house is in his possession and one room on the ground floor was also in his possession. In brief he has asserted his right to the property and has also referred to another house in his possession at Panchkula. The respondents on the other hand point out to the abrasive behaviour of the appellant who has filed as may as 15 cases against the widowed mother including some of them on the criminal side.

The appellant who is present in Court, comes across as a person who has scant respect for his parents and is rather driven by greed and monetary consideration but be that as it may, we have seen the impugned

order as also the order of the District Magistrate and considered the grievance made before the said authority by the aged mother. She has specifically stated in her application that she apprehends threat to her life from the appellant and his wife. She has referred to repeated abuses at the hands of her son, his wife and children. Younger son on the other hand is also living in the same house but the respondent has no grievance against him. The room on the ground floor was given to the appellant for running his office but on a condition that after the marriage of his younger son he will vacate the room but the appellant defaulted in his promise and put his own lock on the room and rather started selling the furniture and accessories fitted in the room. He has also occupied half of the courtyard by placing flower pots and the remaining is used by him as a parking for his scooter and bicycle. In short the entire courtyard and one room is in his occupation. Besides the abusive conduct of the appellant the widowed mother has been put to inconvenience as the appellant allegedly uses heavy electrical gadgets to burden the helpless lady with exorbitant electricity bills just to harass her. A closer scrutiny of the order of the District Magistrate shows that voluminous material was shown to the said authority in support of her plea. The respondent had disowned the appellant by inserting a proper publication in the newspapers. Noticing all the facts in their totality the District Magistrate directed that the appellant will clear courtyard immediately, unlock the front left side gate and clear the passage also. Directions were also issued to the appellant to vacate the front side room on the ground floor immediately as he has sufficient place to accommodate his family at the first floor. She was also held entitled to protection of life and

property and Station House Officer, Police Station Sector 39 was directed to ensure the execution of the order.

Before us no meaningful argument has been advanced and consequently we are of the opinion that finding of the learned Single Judge need not be interfered with. We, therefore, while declining interference direct the Station House Officer, Police Station Sector 39, Chandigarh to execute the order of the District Magistrate forthwith in case it has not yet been done. We make it clear to the appellant who is present in Court that any attempt to obstruct our directions would be viewed by us as an attempt to subvert the process of law in which eventuality we may direct the SHO to proceed against the appellant appropriately. Compliance report be filed by the Station House Officer, Police Station Sector – 39, Chandigarh within one week. The appellant is directed to remain present in Court on the next date of hearing. Since release of the order will take some time, the operative part of the order be communicated to the Station House Officer, Police Station Sector 39, Chandigarh .

Accordingly, office is directed to list the appeal on 13.02.2019 for the above-said purpose.

(MAHESH GROVER)
JUDGE

February 04, 2019
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No Whether Reportable : Yes/No