

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

CWP No.33467 of 2018

Date of decision: January 08, 2019

Tamana Rani

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Raj Kumar Rana, Advocate for the petitioner.

Rajan Gupta, J.

Petitioner poses a challenge to order dated 20.11.2018, passed by District Magistrate, Ambala, whereby application under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, filed by Yogesh Kumar and Kanta Rani (respondents No.3 & 4 herein), has been accepted and petitioner and her husband have been directed to vacate the house in question within 30 days from the date of order.

Learned counsel for the petitioner has urged before this court that the order suffers from patent illegality. Thus, order deserves to be set-aside.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

Brief factual matrix of the case is that Yogesh Kumar and his wife Kanta Rani, who are senior citizens, filed an application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against his son and daughter-in-law, seeking their eviction from their house bearing No.51-A, Shankar Colony, Jandali, Ambala, on the ground

that petitioner and her husband had been harassing and humiliating them by creating a bad atmosphere in the family. They had given half portion of the house to petitioner and her husband for living in order to maintain peace in the family, but still they continued torturing them. After considering entire material on record and taking into consideration report of the Sub Divisional Officer (C), Ambala, the District Magistrate allowed the application filed by respondents No.3 and 4 and directed the petitioners to vacate the house in question within 30 days from the date of order.

I find no infirmity with the order. In judgment reported as ***Gurpreet Singh vs. State of Punjab and others, 2016 (1) R.C.R. (Civil) 324***, a Division Bench of this court 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.”

In view of above, I am of the considered view that the pleas raised before this court are without any merit. Same are hereby rejected. Petition is hereby dismissed.

January 08, 2019
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No