

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

CWP No. 37999 of 2018

Date of decision :08.01.2019

Lov Kumar

...Petitioner

V/s

District Magistrate cum Chairman, Appellate Tribunal, Karnal & ors.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Chirag Wadhwa, Advocate for the petitioner.

RAJAN GUPTA J.

Petitioner has posed a challenge to order dated 12.11.2018, Annexure P-1 passed by District Magistrate cum Chairman, Appellate Tribunal, Karnal (respondent no. 1 herein) whereby application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as 'the Act') filed by Shanti Devi (respondent no. 3 herein) has been accepted and petitioner has been directed to vacate the house in question within a period of fifteen days. The authority also directed that in case petitioner fail to comply with the directions within the prescribed period, the Superintendent of Police, Karnal would provide the police help in order to get the house vacated. It has been urged before the court that application filed under the Act is not maintainable as the same has been filed at the instance of brothers of the petitioner's (respondents no. 4 & 5 herein). Thus, impugned 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 background of the case is that Shanti Devi, who is senior citizen, filed an application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 against petitioner seeking his eviction from the house No. A-484, Sadar Bazar, Karnal, Haryana. It has been stated therein that petitioner had thrown her out from the house in question and she had no source of income. She also alleged that petitioner is not paying any maintenance to her. After considering the entire material on record, District Magistrate-cum-Chairman, Appellate Tribunal, Karnal allowed the application filed by respondent no. 3 and directed the petitioner to vacate the house in question within a period of fifteen days. It observed that as per Clause no. 1 of the family settlement, house in question had come in the share of Shanti Devi (respondent no. 3 herein) and her four daughters but petitioner despite the family settlement had not vacated the house in question for the last 20 years. Moreover, respondent no. 3 is about 90 years of age and is residing in Ashram alongwith her two unmarried daughters. Petitioner is not paying any kind of maintenance to her. I find no infirmity with the impugned 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 has 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 rejected.

January 08, 2019

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No