

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-518-2019 (O&M)
Date of Decision: 17.09.2019

Sadhu Ram

--Petitioner

Versus

State of Punjab & others

--Respondents

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

Present:- Mr. Sunil Agnihotri, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Challenge in the instant petition is to the order dated 16.10.2018 (Annexure P-4) passed by the Additional District Magistrate, Khanna, whereby an application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (herein after to be referred to as the Act) filed by respondent no.3 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 the order.

Petitioner herein is the son of respondent no.3.

Counsel for the petitioner has urged before this Court that the impugned order is patently illegal. It is contended that the allegations raised by the mother against the present petitioner as also his wife and children of harassment and abusive behaviour are false and fabricated. Further argued that the application under the Act moved by respondent no.3 was with an oblique motive and only on the instigation of the brother of the petitioner namely Sanjay Kumar. It is submitted that by virtue of the eviction order, the petitioner as also his family would be put to great inconvenience as they would now have to look for accommodation elsewhere.

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.

Pleadings on record and appended as Annexure P-3 is the application that respondent no.3 had filed under the provisions of the Act seeking eviction of the petitioner herein from the house in question i.e. House No.28/373, Ward No.5, Post Office, Ambedkar Colony, Khanna, Tehsil Khanna, District Ludhiana. In the application it was categorically averred that the senior citizen had purchased the land vide sale deed dated 25.7.1991 and thereafter she had effected construction thereupon. It was also alleged that her son Sadhu Ram i.e. the present petitioner, his wife and children are not in control of the applicant and that they continuously harass her and have even resorted to physical abuse. The senior citizen further averred that her son as also the family are not looking after her in her old age.

Perusal of the impugned order would reveal that a report as regards ownership of the property had been sought from S.D.M., Khanna and as per the verification exercise conducted, the property in question was found to be under the ownership of the senior citizen.

It is by now well settled that if the property is owned by the senior citizen/parent, who is being harassed mentally/physically the said senior citizen/parent may file an application before the District Magistrate under the provisions of the Act for purpose of seeking eviction. This is precisely what has been done in the present case.

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's case (supra)** would virtually negate the challenge raised by the petitioner to the impugned order dated 16.10.2018 (Annexure P-4).

At this stage, it may also be noticed that counsel representing the petitioner has fairly apprised the Court that pursuant to the impugned order, the petitioner as also his family members have already vacated the premises in question.

No ground for interference, as such, is made.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

17.09.2019

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