

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

CWP No. 32363 of 2018

Date of decision :08.01.2019

Rishi Pal & anr.

....Petitioners

V/s

District Magistrate, Kurukshetra-cum-Appellate Authority under
Maintenance & Welfare of Senior Citizen Act, District
Kurukshetra & ors.

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Balbir Singh Saini, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG Haryana.

RAJAN GUPTA J.

Petitioners have posed a challenge to order dated 14.09.2017, Annexure P-7 passed by District Magistrate, Kurukshetra (respondent no. 1 herein) whereby appeal filed by respondents no. 5 & 6 against order dated 03.07.2017 passed by SDM, Shahabad-cum-Presiding Officer, Tribunal under Senior Citizens Act, 2007 has been allowed and petitioners have been directed to be evicted from the property in question. It has been urged before the court that the impugned order suffers from patent illegality. According to him, respondent no. 5 & 6 are not the owner of the property in question as same belongs to Gram Panchayat, Babain. Thus, order passed by the appellate authority deserves to be se-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 Mohinder Kaur & Mam

Chand (respondent no. 5 & 6 herein) moved an application under the

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Sub Divisional Magistrate, Shahbad-cum-Presiding Officer Tribunal (respondent no. 2) seeking eviction of the petitioners, who are their son and daughter-in-law from the property in question. It has been stated therein that petitioners in connivance with each other wanted to usurp their property in a forcible manner. After considering the evidence and documents on record, respondent no. 2 partly allowed the application and directed the petitioners to vacate the possession of self acquired property and panchayat land of respondents no. 5 & 6 immediately except the residential house and shops constructed in 0-5M in khasra no. 10/19/4/2. Aggrieved, petitioners as well as respondents no. 5 & 6 filed appeals before District Magistrate, Kurukshetra (respondent no. 1 herein). Said appeals were clubbed together. It has been stated by respondent no. 5 & 6 that possession of the residential house built on the first floor in khasra no. 10/19/42 be handed-over to them. After considering the entire material on record, the appellate authority-cum-District Magistrate, Kurukshetra vide impugned order dated 14.09.2017 held that respondent no. 5 being the owners of the land in question, accepted the appeal of respondents no. 5 & 6 and ordered eviction of the petitioners from house constructed in khasra no. 10/19/4/2 as the same is owned by Mohinder Kaur wife of Mam Chand (respondent no. 5 herein).

I find no infirmity with the impugned order. The plea that Sub Divisional Magistrate allowed the application of respondents no. 5 & 6 and same is without jurisdiction deserves outright rejection as ultimately the matter has been decided by the District Magistrate, Kurukshetra who is fully competent under the Act to order eviction. As regards the plea that land being Panchayati land, petitioners have no locus standi to question the same.

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