

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

201

CWP No.363 of 2020

Decided on : 17.09.2020

Rajnish Aggarwal and another

... Petitioners

Versus

Deputy Commissioner/District Magistrate, Gurugram and another

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sachin Mittal, Advocate for the petitioners.

Mr. Shivendra Swaroop, AAG, Haryana
for respondent No.1.

Petitioner No.1 and respondent No.2 have also joined
proceedings by way of video conferencing.

(The proceedings are being conducted through
video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioners seek quashing of the order dated 26.11.2019 (Annexure P-1) passed by the District Magistrate, Gurugram.

Vide the said order, the petitioners who are the son and daughter-in-law of respondent No.2 have been ordered to be evicted from House No.787, Sector-15, Part-2, under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and the Rules of 2009.

It is the case of the petitioners that petitioner No.1 has two married sisters and the house in question had been constructed with joint funds. The petitioners as such had been proceeded against *ex parte* by the District Magistrate, since registered notices issued to

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them were received back with the remarks that they have left the house. The case of respondent No.2 was that the remarks were with the connivance of the postal authorities and the petitioner was unaware of the case being heard by the District Magistrate.

To the contrary it is the case of the petitioners that a wrong report has been given by someone for the reasons best known to them and to deprive the petitioners to put forth their defence. In the alternative a plea has been taken that the District Magistrate should have ensured the service upon them, in case the petitioners were not available in the house. It is the case of the petitioners that they are residing on the first floor of the premises in question, which is measuring 12 to 14 marlas.

It is in such circumstances, this Court is of the opinion that the petitioners should be allowed to put forth their defence before the competent authority, since the available material has to be placed by them to show that they had contributed the funds as such to the property, from which they have been ejected in a summary manner. It is the settled principle that rules of natural justice are applicable to such proceedings and they have to be given proper opportunity to decide the proceedings, as their valuable rights of possession are involved. The authority has to ensure that justice is to be done and also seem to be done to both sides.

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The respondent No.2 in his reply has of course denied that the petitioners have contributed towards the construction of the house. The said issue as such is a disputed issue, which the writ Court is not to get into. Accordingly, it is for the concerned authority to see that whether the plea taken by the petitioners is valid and justified or not.

Keeping in view the above, the present writ petition is allowed and the order dated 26.11.2019 (Annexure P-1) is set aside. The parties shall put in appearance before the District Magistrate, Gurugram on 12.10.2020, in person or through their counsel.

SEPTEMBER 17, 2020
Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No