

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

CWP-9971-2020(O&M)

Date of decision: 11.09.2020

Pardeep Chaudhary

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Chanderhas Yadav, Advocate for the petitioner

Mr. Sanjay Mittal, Addl. AG, Haryana

Mr. Vinod Bhardwaj, Advocate for respondent no.5 and 6

ANIL KSHETARPAL, J. (ORAL)

This writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the order dated 8.7.2019 passed by Sub Divisional Magistrate, Kurukshetra and the order dated 18.9.2019 passed by Deputy Commissioner, Kurukshetra.

On 17.7.2020, after hearing learned counsel for the petitioner, the following order was passed:-

“Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Challenge herein is to the orders passed on 08.07.2019 and 18.09.2019, ordering eviction of the petitioner by the authorities exercising jurisdiction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act').

Learned counsel for the petitioner while referring to the judgment passed in Civil Writ Petition No.4744 of 2018, decided on 23.01.2020 (***Simrat Randhawa vs. State of Punjab and others***), contends that the eviction of the petitioner could not be ordered under the provisions of the Act or the rules framed thereunder. He further contends that the petitioner is also a co-owner of the disputed property and without partition no order of eviction could be passed.

Notice of motion for 08.07.2020.

On the request of this Court, Mr. Gaurav Jindal, Addl. AG Haryana, accepts notice on behalf of respondent no.1 to 4.

Let the petitioner takes steps to serve notice on respondent no.5 and 6 by taking *dasti* summons.

In the meantime, operation and effect of orders dated 08.07.2019 and 18.09.2019 would remain stayed.”

Sh. Vinod Bhardwaj, Advocate has put in appearance on behalf of respondent no. 5 and 6, the contesting respondents. He very fairly admits that the orders passed by the authorities while exercising powers under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are without jurisdiction. He submits that the parties will have to get their dispute settled from a Civil Court.

Keeping in view the fair stand taken by the learned counsel for respondent no. 5 and 6, the writ petition is allowed. The orders dated 8.7.2019 (Annexure P-16) and 18.9.2019 (Annexure P-18) passed by the Sub Divisional Magistrate and the Deputy Commissioner, Kurukshetra, respectively, are quashed.

With these observations, the writ petition is disposed of.

11.09.2020

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Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No