

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

CWP-4901-2020

Date of decision : 21.05.2021

Swaran Kaur

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. H.S. Dhindsa, Advocate
for the petitioner.

Ms. Akshita Chauhan, AAG., Punjab.

Mr. Sukhmeet Singh, Advocate
for respondent No.5.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner, a widow senior citizen, arises out of alleged day to day harassment meted out to her by none other, but her own two sons i.e. respondents No.4 and 5.

2. Bone of contention, inter alia, is also a house measuring 219 sq. yards, situated at Village Partap Singh Wala, Tehsil and District Ludhiana, wherein, the petitioner by virtue of a Will of her husband, has got one half share and the other half has been bequeathed to her sons by her late husband.

3. The case pleaded by the petitioner is that in order to grab her share, the private respondents are deliberately creating hurdles in the day to day peaceful living of the petitioner in her portion of the house bequeathed to her. She also alleges that her son i.e respondent No.5 has cut off the electricity as well as water connection from his portion located at the first floor from where the common supply was being provided to the petitioner on the ground floor, where she is residing.

4. On a Court query, learned counsel for the petitioner submits that despite her best efforts the water and electricity supply was since not restored by her son, the petitioner was later on forced to get a fresh electricity connection in her own name at the ground floor. He submits that water is still not being

provided to her but one way or the other she is somehow managing to get it. He also submits that the petitioner is a destitute lady and in the evening of her life, she is not even being provided money for her basic needs and is surviving on a paltry sum of Rs.750/- p.m towards old age pension being provided by the State.

5. Per contra, learned counsel for respondent No.5 submits that respondent No.5 is willing to look after his mother and there seems to be some misunderstanding which has led to her seeking recourse to the Maintenance Tribunal.

6. Office report reveals that steps were taken to serve the other son of the petitioner i.e respondent No.4 but he seems to be evading the service despite the attempts to serve him. Same is also borne out from the fact that despite the ample opportunity, he chose not appear before the Maintenance Tribunal and was proceeded *ex-parte*. As regards the other son i.e respondent No.5, learned counsel representing him submits that he has been diligently paying/offering Rs.2,000/- p.m. to his mother and shall continue to do so.

7. Having heard the rival contentions of learned counsel for the parties, I am of the view that it is the moral, social and legal duty of both the sons to look after their widow destitute 65 years old mother.

8. As regards the impugned order, a perusal thereof would reveal that the enquiry was conducted by the learned Tribunal with regard to property situated at Village Talwara, whereas, the complaint filed by the petitioner pertains to aforesaid property situated at Village Partap Singh Wala, more particularly described to be located in *Khasra No.24//10*, of which the petitioner states herself to be the owner. That apart, while making the enquiry, it is expected of the Tribunal to enquire about the maintenance, threat perception, general welfare and medical need of the senior citizen, keeping in view the objective of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Apart from protecting the property belonging to the senior citizen, his/her maintenance and welfare is also to be ensured.

9. As already observed, since the enquiry was conducted qua another alternative property, in which, the petitioner concededly does not have any ownership, the Tribunal led itself to arrive at the factually incorrect conclusion that since no property qua which protection is envisaged under the Act is involved, either gifted or self acquired/inherited, therefore, the application invoking the jurisdiction of Maintenance Tribunal was held to be not

maintainable. Resultantly, it was dismissed on the basis of a wrong conclusion.

10. In the aforesaid premise, I find that the Tribunal committed a material irregularity in not conducting an enquiry qua the shared property i.e. the one situated at Village Partap Singh Wala, District Ludhiana. Accordingly, the impugned order dated 05.12.2019 (Annexure P-6) is set aside and the Tribunal is directed to hear the parties afresh, after conducting an enquiry qua the property located at Village Partap Singh Wala, District Ludhiana, and pass an order, in accordance with law.

11. In the interregnum, respondent No.5 shall continue to deposit Rs.2,000/- p.m. in the same bank account, where he was earlier depositing. Respondent no.4 is also directed to pay a similar amount of Rs.2,000/- p.m. to his mother and the Tribunal is directed to take appropriate steps to ensure that the compliance of this order is carried out by both the respondents No.4 and 5.

12. In addition, both the sons shall also deposit a sum of Rs.5,000/- each as *lump sum* expenses which may be required by the petitioner towards her immediate medical needs.

13. Compliance of this order be carried out within a period of 30 days from today.

14. Disposed of in above terms.

May 21st, 2021

gurpreet

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*