

Sr. No. 202

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

CWP-7214-2020

Date of decision: 01.04.2022

Khajinder Pal Singh

...Petitioner

Vs.

Additional District Magistrate and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Avtar Singh Syan, Advocate
for the petitioner.

Mr. Abhaypal Singh, AAG, Punjab
for respondent No.1.

ARUN MONGA, J. (ORAL)

Petition herein is for issuance of a writ in the nature of certiorari to quash order dated 14.01.2020 passed by respondent No.1-Additional District Magistrate, SAS Nagar vide which petitioner, who is the son of the senior citizen, was ordered to vacate the second floor of House No. 2956, Phase VII, Mohali.

2. Learned counsel for the petitioner submits that the impugned order directing eviction of the petitioner is legally unsustainable in view of Clauses 1 to 3 of the Punjab Action Plan, 2014 having been held to be ultra vires the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Punjab Maintenance and Welfare of Parents and Senior Citizens Rules, 2012. He further submits that respondent No.2 (senior citizen) has since expired during pendency of the writ petition. He has tendered a copy of death certificate of respondent No.2 in course of hearing, which is taken on record and marked as Annexure 'A'.

3. Learned State counsel submits that State does not intend to file reply.

4. I have heard learned counsel for the parties and gone through the case file.

5. Perusal of the impugned order would reveal that the same has been passed by respondent No.1 without affording any opportunity to the petitioner to lead evidence. Moreover, it is not disputed that respondent No.2 had executed a registered Will in favour of the petitioner, who had spent money for construction of the house. Respondent No.2 has since expired. His right in possession to enforce the impugned order does not survive. The impugned order is, therefore set aside and instant writ petition is disposed of accordingly.

6. The legal heirs of respondent No.2 are at liberty to pursue their rights in accordance with law, if so advised.

01.04.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No