

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103+265

CM-6437-CWP-2023
CM-7578-CWP-2023
in/and CWP-10164-2022
Date of decision: 02.05.2023

SATISH KUMAR BANSAL AND ANOTHER

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Ranjan Lakhanpal, Advocate with
Mr. Shubkaran Singh, Advocate
for the petitioners.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Ms. Chandni Bajaj, Advocate for
Mr. Rajeev Anand, Standing Counsel
for the respondent No.4-U.T. Chandigarh.

Mr. Rishav Jain, Advocate
for respondent No.5.

VINOD S. BHARDWAJ, J. (Oral)

CM-6437-CWP-2023

The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 for placing on record accompanied replication to the reply filed by respondent No.5.

Application is allowed as prayed for and replication to the reply filed by respondent No.5-Akshay Bansal is taken on record.

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The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 for placing on record accompanied replication to the reply filed by respondents No.1 to 3.

Application is allowed as prayed for and replication to the reply filed by respondents No.1 to 3 is taken on record.

CWP-10164-2022

The present petition had been filed for seeking issuance of directions to the respondent No.5 to provide emotional support to the petitioners who are his parents and to visit them at least once a month.

Learned counsel for the petitioner contends that respondent No.5 was born on 19.03.1988 and became a Manager of Punjab & Sind Bank. He got married to one Tarasha Arora on 05.02.2018 wherein the petitioners spent Rs.15 lakhs to Rs. 20 lakhs for solemnization of marriage ceremonies and to fulfill the wishes of their son. However, mother-in-law of respondent No.5 i.e. Akshay Bansal started misbehaving with the petitioners and respondent No.5 alongwith his wife left the house and started residing at Gurugram. The petitioners are Senior Citizens and not keeping good health and respondent No.5-Akshay Bansal (son of the petitioner) is not visiting them and is not providing emotional and moral support in their times of need.

Notice had been issued to the respondents. Replies by the State as well as private respondents have been filed as per which the complaint filed by the petitioner No.2 was enquired into and the respondents were also joined by them. Statements of both the parties were recorded whereupon it

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was found that no cognizable offence is made out and at present, no complaint of petitioner is pending.

A separate reply by the respondent No.5-Akshay Bansal(son of the petitioners) was also filed in which he has denied the allegations leveled against him and has rather alleged that cause of the entire dispute rather has been unaccommodating nature and behavior of the petitioners. The answering respondent had been thrown out of the family house by the petitioners and no efforts had been made by them to take them in. The petitioners then started abusing and misbehaving with his in laws as well. He contends that both the petitioners are retired government employees and are residing in the said house.

The respondent No.5 claims that he does not deny his moral duties to take care of his parents, however, considering the behavior and attitude of the petitioners, he was forced to leave the said house and to reside in a rented accommodation. It is further pointed out that the petitioners went even to the extent of circulating pamphlets in the market of Sector-15, Chandigarh where the pharmacy shop of his father-in-law is situated, leveling frivolous allegations and thus causing embarrassment and mental harassment to his in laws as well as his wife. It is also expressed that the respondent apprehends trouble in his matrimonial life due to incessant behavior of the petitioners. It was pointed out that the prayer made by the petitioner would not fall under the purview of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. A further objection has been raised that the writ petition against the petitioner would not be maintainable.

Counsel for the petitioners, however, does not deny the fact that

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they are in receipt of pension from the Government. He further contends that he does not require any financial assistance or maintenance from respondent No.5-Akshay Bansal and that they only want that he be directed to meet them occasionally and at least once a month. The private respondent, however, expressed his unwillingness.

I have heard learned counsel appearing on behalf of the parties and have gone through the documents available on record.

The case is reflective of the changing societal norms and the social acceptabilities. The conflict between the family value and scope of law is being brought to the fore in the present case. In matters of human behavior and expectation of moral sensitivities, the rule of law falls short. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides for ensuring effective provisions for maintenance and welfare of parents and senior citizens, however, the scheme of the act stipulates maintenance and protection of properties of the senior citizens. It is not the case of the petitioners that any property and/or their interest in property has been taken over or retained by the respondent No.5.

Howsoever, much it may be desired by this Court that respondent No.5 should visit his parents and respond to their emotional needs and de hors the mutual differences amongst them, however, the hands of this Court would be tied in issuing the prerogative writ of Mandamus to the private respondent to go and meet his parents. Exercise of any such jurisdiction may roll a dice which might never come to an end and the enforcement thereof can never be supervised or ensured. The requirement of an emotional support and/or visiting rights as being claimed by the

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petitioners being parents of respondent No.5 are equally in conflict with the rights, if any, that may be vested in the respondent being a grown up male adult and his family as to whether they intend to meet their parents or not. Such family conflicts rooted out of mutually cannot be resolved by means of issuing any writ against the private respondents. Any such elaborate/interpretation of Right to Life under Articles 21 of the Constitution of India would is likely tend to expand the scope beyond proportions and management for seeking invocation of Article 21 against the private respondent No.5, the petitioner is required to establish an enforceable right against respondent No.5. In the absence thereof, issuance of such a prerogative writ may not be permissible.

At the same time, it is also the case of the private respondent that conduct of petitioner had been hostile and crule & infact they had thrown them out of the house. Besides, various undesired activities were also attributed to have been done by the petitioners which impacted his matrimonial life.

It would also be debatable as to the extent to which the right of respondent to not meet the petitioners or to determine whom he would like to meet can be prescribed or defined by the Court. The Court would be equipped to ensure execution of statutory rights but the mechanism may not be adequate to enforce social norms or expectations. Any such initiative is likely to give birth to a stream of litigation where the Court would be burdened with litigation that may not be founded in law and the Court may find itself in a dilemma where parents expectations cannot be met by children and it may also be a reverse situation.

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Emotional well being is undoubtedly a fact of right to life, however, enforcing it against another may not be good for the emotional health of the other. It would thus not be possible to strike the balance.

Since the petitioner do not claim any maintenance or any other rehabilitatory measure, despite sharing its concern about the state of affairs and wishing good for the family desiring good sense to prevail, the prayer sought for cannot be answered at this juncture.

The petition is accordingly dismissed.

**(VINOD S. BHARDWAJ)
JUDGE**

MAY 02, 2023
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No