

house to petitioner No.1-Harjit Singh, but the Maintenance Tribunal ignored the petitioner's stand, while ordering their eviction on the basis of family settlement dated 25.07.2001. He submits that the brothers of petitioner No.1, namely, Bhupinder Singh and Baljit Singh, who were impleaded as LR's of Jaswant Singh after his death on 24.05.2018 instigated the senior citizens to file this claim. According to learned counsel, the brothers of petitioner No.1 have also propounded a Will dated 31.05.2017, allegedly executed by Jaswant Singh and the same is under challenge by way of a civil suit dated 06.08.2018 filed by petitioner No.1-Harjit Singh before Civil Judge (Sr.Division), Patiala, which is pending adjudication, wherein he has also relied upon the family settlement dated 25.07.2001, whereby the first floor of House No.257 (New No.258) situated at Dukh Niwaran Colony, Sirhind Road Patiala fell in his share. Learned counsel has pointed out that the claim of the senior citizen seeking eviction of the petitioner has lost its significance after his demise, therefore, the impugned order deserves to be set aside.

Learned counsel for the respondent has argued that Jaswant Singh-senior citizen clearly depicted his grievance in application dated 03.03.2017 (Annexure P-2) against the petitioner No.1-Harjit Singh and his family and prayed for their eviction by invoking the The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the order has been passed by the Maintenance Tribunal in accordance with law keeping in view the importance and object of the statute. Mr. Sapan Dhir, learned counsel for respondent has drawn the attention of the Court to the written statement and submitted that the petitioner Harjit Singh had previously filed a civil suit for declaration claiming his ownership of the first floor of House No.257, before the Court of Civil

Judge (Sr.Division) Patiala (Annexure R-2/5), wherein the senior citizen filed his written statement dated 08.02.2018 (Annexure R-2/6). He submits that Jaswant Singh pleaded in the written statement that by virtue of sale deed bearing No.4547 dated 06.02.1984, he acquired absolute title in the property in question and the said suit is also pending adjudication. Learned counsel has not disputed this fact that the other sons of Jaswant Singh have propounded a Will and as per this, after death of Jaswant Singh, property is inherited by them. He prays that the impugned order dated 18.05.2018 (Annexure P-8) passed by respondent No.1 does not warrant interference.

After hearing learned counsel for the parties and considering the above background, it transpires that the sole grievance of the senior citizen relates to the eviction of Harjit Singh and his family from the house No.258, Dukh Niwaran Camp Colony, Patiala, however, a perusal of the application dated 03.03.2017 (Annexure P-2) shows that it does not contain any averment that Harjit Singh along with his family is residing in the said house and the application filed by senior citizen is vague, wherein he has only expressed his displeasure against the conduct of Harjit Singh etc. while making a prayer for eviction.

During the course of hearing, it has not been disputed by learned counsel for the parties that the issues relating to the family settlement dated 25.07.2001 and Will dated 31.05.2017 are pending adjudication before the Civil Court, and the rights of the parties will be decided by the Civil Court, and even the pendency of the suit is also noticed by Maintenance Tribunal in the impugned order dated 18.05.2018, but it proceeded to order eviction of the petitioners on the ground that Civil Court has not granted any protection to the

petitioner No.1. Further, it has been observed that whenever the final decision will be delivered by the Civil Court, the parties shall be bound to comply the same.

Notably, this Court vide order dated 12.07.2018 had directed the parties to maintain status quo regarding possession and this interim order is continuing, but during the pendency of the writ petition, as the senior citizen has expired, his grievance for eviction of the petitioners does not exist, therefore, the order dated 18.05.2018 cannot be allowed to remain operative.

Consequently, the writ petition is allowed and the impugned order dated 18.05.2018 (Annexure P-8) is set aside.

(MANOJ BAJAJ)
JUDGE

04.05.2023

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