



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

CWP No.6238 of 2021 (O&M)

Date of Decision: 14.11.2024

Binder Kaur and others

..... Petitioners

Versus

Additional Deputy Commissioner/Appellate Tribunal, Barnala and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Gurbir Singh Sidhu, Advocate for the petitioners.

Mr. T.P.S.Walia, AAG, Punjab for respondent No.1.

Mr. K.B.Raheja, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for issuance of a writ in the nature of *Certiorari* for setting aside the impugned order dated 27.02.2019 (P-1), passed by respondent No.1, whereby petitioners were directed by the Tribunal to vacate the house in question, measuring 7.1/2 x 7.1/2, total 2 Biswas and 16 Biswasies, within Village Ramdasia Patti, Near Gurdwara Sangatsar, Khudi Kalan, Tehsil and District Barnala.

(2) Facts are not in dispute.

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(3) Briefly stated, respondent No.2-Sukhdev Singh, who is a Senior Citizen and retired from Public Works Department, had filed an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*for short* '2007 Act') for eviction of present petitioners, who are none other than his daughter, son-in-law and maternal grandson, from residential house, situated at Village Ramdasia Patti, Near Gurdwara Sangatsar, Khudi Kalan, Tehsil and District Barnala. The said application was allowed by respondent No.1-Additional Deputy Commissioner/Appellate Tribunal, Barnala (*for short* 'Tribunal'), vide impugned order dated 27.02.2019 (P-1). Hence, the present petition.

(4) Contends that the Tribunal has committed grave error of law while allowing the application as keeping in view of the judgment dated 23.01.2020, titled as "**Simrat Randhawa Versus State of Punjab and others**", passed in CWP No.4744 of 2018, there was no jurisdiction vested with the Tribunal. Also contends that it is a proxy litigation at the instance of brother of respondent No.2; hence, present petition be accepted and impugned order be set aside.

(5) *Per contra*, learned Counsel for contesting respondent No.2 while opposing the prayer submits that all three petitioners have become greedy and merciless beatings were given to respondent No.2 by them and on that count, FIR No.0101 dated 05.08.2018, under Section 325 read with Section 34 of the Indian Penal Code, 1860, Police Station Barnala, District

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Barnala was registered against petitioner Nos.2 & 3, namely, Gurmail Singh & Jagdeep Singh.

Respondent No.2, who is also present in the Court, apprised that twice he has been given beatings by all the petitioners and they have hell bent upon to grab his house without any basis despite the fact that petitioner No.1 is a married daughter and she is residing in the same house.

(6) Learned State Counsel also submits on the same lines as of respondent No.2 and opposed the prayer of petitioners.

(7) Heard parties and perused the paper-book.

(8) So far as controversy regarding maintainability of the petition is concerned, it is well settled law by the Division Bench of this Court in LPA No.257 of 2024, titled as **“Naresh Kumar and another Versus The Appellate Tribunal, Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and others”**, decided on 06.02.2024 that such an application at the instance of Senior Citizens is maintainable; thus, the objection raised by the petitioners is outrightly rejected.

(9) Moreover, there is no quarrel that in view of the provisions of 2007 Act, a Senior Citizen has a right to file an application for eviction of any unauthorized occupants or his dependent son/daughter, whosoever may be, if they are not taking caring of him/her.

(10) In the present case, an FIR was registered against the petitioner(s); thus, it is quite evident that they are ill-treating respondent No.2; not taking proper care and even allegedly caused injuries to him.

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(11) In view of the above, this Court does not find any ground to interfere with the impugned order, passed by the Tribunal; rather the present writ petition is complete misuse of the legal process. Hence, such type of frivolous litigations deserve to be discouraged.

(12) In view of the above, present petition is dismissed with costs of ₹ 15,000/- to be paid to respondent No.2 by all three petitioners (₹ 5000/- each).

(13) Needless to say that interim order dated 25.03.2021, extended from time to time, shall come to an end, automatically.

Pending application(s), if any, shall also stand disposed off.

14th November, 2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes