



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

**CWP No.12794 of 2022 (O&M)
Date of Decision: 14.08.2024**

Kanta Chawla

..... Petitioner

Versus

Appellants (*sic- Appellate*) Tribunal, Welfare of Parents and Senior Citizen,
Kurukshetra through its Chairman and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Jagdish Manchanda, Advocate and
Mr. R. Kartikeya, Advocate,
along with petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for respondent No.1.

Mr. Sachin Gupta, Advocate along with respondent No.2.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed, under Article 226 of the
Constitution, *inter alia*, for quashing the impugned order dated 29.03.2022
(P-4), passed by respondent No.1, whereby application filed by petitioner



under Sections 22(2) & 32(f) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short “Act”) was rejected.

(2) Brief facts:-

Petitioner is claiming herself as owner of House No.960-A, Sector 13, Housing Board Colony, Kurukshetra. Her son passed away on 09.08.2020, followed by her husband, who breathed his last on 22.09.2020. Petitioner and her husband had purchased the aforesaid house from their joint funds.

2(i) It is alleged that after the death of her husband & son, respondent No.2-Pooja Chawla (daughter-in-law) started quarreling and misbehaving with the petitioner on one pretext or the other and refused to maintain her. Further allegations are that respondent No.2 gave beatings to the petitioner and threw her out from the said house. Now, petitioner is staying in a rented accommodation, having no independent source of income to maintain herself.

2(ii) Respondent No.2 is a Manager in HDFC Bank, Kurukshetra and her earnings are more than Rs.1 Lakh per month. Respondent No.2 has also filed several civil cases against her at Kurukshetra.

2(iii) Petitioner moved an application under Sections 22(2) & 32(f) of the Act before respondent No.1, seeking eviction of respondent No.2 from the above said house; Rs.10,000/- as maintenance and Rs.15,000/- per month w.e.f. March 2021 till the vacation of house.

The application has been dismissed vide impugned order; hence present petition.



(3) Reply on behalf of respondent No.2 has been filed. The same is taken on record. Copy thereof supplied to the opposite side.

(4) Learned counsel contends that respondent No.1 has wrongly rejected the application while observing that petitioner is having sufficient means to live a comfortable life and that respondent No.2 never harassed the petitioner. Further contended that respondent No.1 wrongly observed that it has no jurisdiction to evict respondent No.2 from the said premises and that the question with respect to the “shared household” would be determined by the appropriate forum.

Also contends that respondent No.2 harassed and misbehaved with the petitioner. She did not maintain the petitioner; nor she allowed her (petitioner) to reside in the house.

(5) *Per contra*, learned Counsel for respondent No.2, while opposing the prayer, submitted that she never harassed or misbehaved with the petitioner at any point of time; nor she ever gave beatings to her.

Also submitted that respondent No.2 is ready to maintain the petitioner; but she is not willing to live with her. Further submitted that respondent No.2 is having no accommodation and in case she is evicted from the house in question, respondent No.2 along with her minor children would be left on the road.

Lastly submitted that right of a woman to secure residence order in respect of shared household, cannot be defeated by securing order of eviction by adopting summary procedure under the Act and in support thereof, learned counsel for respondent No.2 has relied upon judgment, titled as “**Smt.**



S Vanitha Versus The Deputy Commissioner Bengaluru Urban District & Ors.”, 2021 (15) SCC 730.

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) A perusal of the impugned order reveals that a report was called from Sub Divisional Officer (North), Thanesar vide memo No.1446/Peshi dated 22.10.2021. In response thereto, Sub-Divisional Officer (North) sent his report vide memo. No. 1716/peshi dated 24.12.2021 and which was received by respondent No.1 on 04.01.2022. However, the aforesaid report has neither been discussed; nor its contents are discernible from the impugned order.

(8) Apart that, in the impugned order, it is observed that “*plaintiff has sufficient means to live a comfortable life and faces no harassment from defendant No.1, who is her daughter-in-law*”, however, there is no evidence to substantiate these finding.

This Court has gone through the entire case file carefully, but does not find any material to sustain the above findings recorded by the Tribunal.

(9) In view of the above, there is no option, except to allow the present petition.

(10) Consequently, writ petition is allowed; the impugned order dated 29.03.2022 is quashed and set-aside. The matter is remitted back to respondent No.1 to pass fresh order in accordance with law on or before 31.12.2024.



(11) It is clarified that observations, made above, be not construed as an expression of opinion on merits of the controversy in any manner.

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

14th August 2024
Gagan/SN

(MAHABIR SINGH SINDHU)
JUDGE

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