

2024:PHHC:107602-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(112)**

LPA-1882-2023 (O&M)

Decided on : 21.08.2024

Krishan & another

.....Appellant(s)

Versus

District Magistrate-cum-Appellate Tribunal, Panipat & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Nishant Raj, Advocate for the appellant (s).

G.S. Sandhawalia, J.(Oral)

1. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-20504-2023 whereby the writ petition raising challenge to the order of the Deputy Commissioner dated 06.07.2023 (Annexure P-5) was dismissed.

2. The Deputy Commissioner, while allowing the appeal of respondent No.5, Darshna Devi, who is mother of the present appellants, had ordered ejectment from the house in question. The Learned Single Judge noticed that ejectment from the house in question was on account of an application filed under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, the 'Act'). The private-respondent had specifically averred that the present appellants were harassing and maltreating her and threatening to throw her out of the house where she was living with one of her sons.

3. It was noticed that initially, the SDM had passed an order dated 11.12.2019 wherein a sum of Rs.2000/- was directed to be paid by each of the appellants as maintenance in cash, to be deposited in the bank account. The order had become final since no appeal was filed by the appellants and that in the appeal filed by respondent No.5, the Deputy Commissioner ordered eviction while noticing that she had purchased the house measuring 100 sq.yards vide sale deed dated 26.12.1989 and in the absence of any service being rendered by the appellants to take care of their mother in her old age, they were liable to be evicted.

4. The Learned Single Judge placed reliance upon the judgment of the Apex Court in **Smt. S Vanitha Vs. The Deputy Commissioner Bengaluru Urban District & others, 2021 (15) SCC 730**, while recording the finding that the object of the Act was to ensure maintenance and protection of the senior citizen or parent.
5. Counsel for the appellants attempted to argue that the appellants had contributed in the building of the house where the mother was staying with one of her sons.
6. We have perused the paperbook and the reply filed by the appellants (Annexure P-2) wherein it has been averred that the house was purchased from the funds of joint Hindu family but nothing has been brought on record before the authorities below that the appellants had contributed in the building or purchase of the house in any manner. In the absence of any such material, we are of the considered opinion that the defence taken by the appellants would not suffice as it was for them to bring on record material to show that they had contributed in purchase/building of the house so that the authorities below could record such a finding under the Act.
7. In such circumstances, it would not be possible for us to go into the disputed issues. The enforcement of the order will only protect the interest of the senior citizen and if the appellants have any such right or claim in the house, they can enforce it by taking recourse to their remedy in appropriate proceedings at a subsequent point of time.
8. Resultantly, in view of the above discussion, the present appeal is hereby dismissed in limine. All pending applications stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

21.08.2024
Sailesh

Whether speaking/reasoned : Yes
Whether Reportable : No