



116

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

**CWP-29857-2024 (O&M)
Date of decision : 18.11.2024**

Lalita ...Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

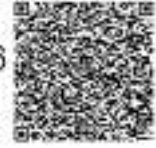
Present: Mr. Prince Kumar Singh, Advocate,
for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Articles 226/227 of the Constitution, *inter alia*, for quashing of order dated 27.08.2024 (P-1) passed by the Deputy Commissioner-cum-Chairman, Appellate Tribunal, Sonipat (*for short*, “*Appellate Tribunal*”), whereby, appeal filed against the order dated 28.02.2024 (P-2), passed by learned Presiding Officer, Maintenance and Sub-Divisional Magistrate, Sonipat (*for short*, “*Maintenance Tribunal*”), was accepted and eviction was ordered against the petitioner.

2. Brief facts of the case are respondent Nos.2& 3 filed an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*for short*, “*the Act of 2007*”), against the petitioner-

Lalita, daughter-in-law as well as respondent No.4-Sachin, his son



seeking their eviction from the house No.142, B/27, Reliance Towel Wali Gali, Jawahar Nagar, Sonipat, measuring 100 sq. yds. and, in the alternative, to shift in a 200 sq. yds. house situated in Dahiya Colony, Kakroi, Road, near Sector 23, Sonipat. Learned Maintenance Tribunal vide order dated 28.02.2024 declined the prayer, but ordered the second party to pay Rs.5,000/- per month as maintenance allowance and for reference, relevant part of the order (*ibid*) reads as under:-

“Keeping in mind the above circumstances, it is not in the interest of justice to vacate the disputed house, because the second parties do not have any house to live in and they have two children.

Therefore, the second party will regularly pay Rs.5000/- as maintenance allowance to the first party by the 5th date of every month. Both the parties are also instructed to live peacefully in their house....”

3. Feeling aggrieved, respondent Nos.2 & 3 preferred statutory appeal before learned Appellate Tribunal, which was accepted vide impugned order dated 27.08.2024 in the following manner:-

“Therefore, in these circumstances, finding strength in the present appeal of the appellants, it is accepted and the order under appeal of the subordinate tribunal is found to be erroneous and for the safety and peaceful living of the appellants, the respondents are ordered to immediately vacate the said house no. 142B/27 near Reliance Tower Jawahar Nagar Sonipat so that the old and sick appellants can live their life peacefully as per their wish...”

4. Hence present petition.

5. Contends that petitioner is daughter-in-law of respondent Nos.2 & 3; thus, she has a right to live and reside in the house in question. Also contends that petitioner is maintaining two minor



children and they are suffering from Dengue as on date; therefore, it is very difficult for them to survive without accommodation. Again contended that the order impugned has been passed without considering the true spirit of the Act of 2007.

6. Heard learned counsel for the petitioner and perused the paper-book.

7. It is evident from perusal of the paper-book that respondent No.3 is the owner of two houses detailed in paragraph No.2 of this order. It is also not in dispute that respondent No.3 has candidly offered that petitioner may reside in the 200 sq. yds. house along with her family and she will not even charge any license fee in this regard. It is also discernible that the house in which respondent No.3 is residing along with her husband-respondent No.2 is only a 100 sq. yds. house.

8. Since respondent No.3 is the registered owner of both the houses and there is an offer that petitioner can reside in the 200 sq. yds. house; therefore, in the considered opinion of this Court, prayer of the petitioner is unjustified.

9. Although, learned counsel for the petitioner raised a specific plea that the 200 sq. yds. house which is being offered to her is not livable; therefore, they would not be able to shift there; but the plea is rejected on the ground that it is not the petitioner who can choose as to in which house she can reside; rather it is for respondent No.3 who has graciously offered her to reside in that house.



10. In view of the above, present petition is wholly misconceived and as such, liable to be dismissed with costs.

11. However, taking a lenient view, the petition is dismissed; but, no costs.

Pending application(s), including CM-18072-CWP-2024, shall also stand disposed off.

18.11.2024
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

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