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

**CWP-16408-2018 (O&M)
Date of decision : 11.11.2024**

Chhaju Ram ...Petitioner(s)

Versus

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

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajesh Khandelwal, Advocate
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

Respondent No.3 in person
with Mr. Pardeep Sharma, Advocate,
for Ms. Anuradha, Advocate.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Articles 226/227 of the Constitution, *inter alia*, for quashing of order dated 13.03.2018 (P-3) passed by learned District Magistrate, Hisar, whereby, application of the petitioner filed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*for short, 'the Act of 2007'*) for eviction of respondent No.3, was declined.

2. Brief facts of the case are that petitioner-Chhaju Ram, filed an application under the Act for eviction of respondent No.3 (daughter-in-law of petitioner), from a 100 sq. yds. house situated at Mandi Sanian, Hansi being self-acquired property. The marriage of petitioner's son



Yogender was solemnized with respondent No.3 on 30.03.2008, but unfortunately, said Yogender died on 17.10.2015, leaving behind his old-aged parents, wife and minor son.

3. Contends that petitioner is owner of the house in question; thus learned Tribunal has committed a grave error while declining the application for eviction of respondent No.3. Also contends that the Act of 2007 is a beneficial legislation for the Senior Citizens and as such, due consideration ought to have been given by the learned Tribunal while deciding the application.

4. *Per contra*, learned counsel for respondent No.3 while opposing the prayer of petitioner, submits that she lost her husband in the year 2015 and residing with her minor son in half portion of the house in question and the petitioner in residing in remaining half of said house. Also submitted that respondent No.3 does not have any independent source of income. Again submitted that it is the sister-in-law, i.e. daughter of the petitioner who is creating all problems and at her instance, now the petitioner has become greedy, to grab the entire house. Thus, this is a proxy litigation at the behest of sister-in-law of respondent No.3.

4. Heard learned counsel for the parties and perused the paper-book.

5. On 11.07.2024, this Court passed the following order:-

“In view of the controversy involved, let petitioner as well as respondent No.3 be present on the next date of hearing.

Posted for 29.08.2024.”



Though in compliance of the order (*ibid*), respondent No.3 is present in person, but petitioner has chosen not to appear for the reasons best known to him. Though, learned counsel for the petitioner tried to justify his non-appearance by stating that he being an old person, is incapable to move, but no material in this regard has been brought on record to substantiate this plea. Thus, it can be safely concluded that petitioner has intentionally avoided appearance before this Court.

6. It is not in dispute that petitioner is the owner of house in question, but it is equally acknowledged by learned counsel for the petitioner that house has already been partitioned after the death of his son and petitioner is residing in the half portion; whereas, respondent No.3 along with her minor son resides in the remaining half portion.

7. It is also not in dispute that respondent No.3 is a widow, saddled with the responsibility of raising her minor son and having no independent source of income; therefore, there is no hesitation to observe that entire litigation is being fought as a proxy by sister-in-law of respondent No.3, just to oust her from the house in dispute.

8. There is no quarrel that the Act of 2007 is a beneficial legislation for the Senior Citizens and the legislative intent of the same is to provide *simple, inexpensive and speedy provisions to claim maintenance for parents*. However, the facts and circumstances of present case do not warrant for eviction of respondent No.3 and her minor son from the remaining half portion of the house in question.

9. Thus, the reasons assigned by learned Tribunal are valid and no interference is required by this Court; rather there would be no



hesitation to hold that present petition is a complete misuse of the process of Court; hence liable to be dismissed with costs.

10. In view of the above, there is no option except to dismiss present petition, but considering the old age of petitioner, no costs.

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

11.11.2024
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(MAHABIR SINGH SINDHU)
JUDGE

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