



CWP-6261-2019

:1:

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

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**CWP-6261-2019 (O&M)
Date of decision : 13.01.2025**

GURPREET SINGH AND ANOTHER

..... Petitioners

VERSUS**DISTRICT MAGISTRATE AND ANOTHER**

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. B.D. Sharma, Advocate
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Chander Shekhar, Advocate
for respondent No.2.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the grievance being raised by the petitioners is that without appreciating certain facts as to whether, the respondent No.2 is the owner of the premises or not, the eviction order dated 23.01.2019 (Annexure P-9) has been passed.

2. Learned counsel for the petitioners submits that the respondent No.2 had filed a civil suit claiming the ownership of the premises in question by impleading the petitioners as a party to the said suit, which suit has already been dismissed vide order dated 14.11.2017 (Annexure P-4).

3. Learned counsel for the petitioners further submits that without even proving the ownership of the property in question, the order dated 23.01.2019 (Annexure P-9) has been passed directing the petitioners to

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vacate the said house especially when, three rooms of the said property are already in the occupation of respondent No.2 and the petitioners are living in only one room with the common washroom.

4. Learned counsel for respondent No.2 submits that the respondent No.2 has purchased the property for his own need and there is an agreement to sell in favour of respondent No.2 and the suit which was filed by respondent had only been dismissed for non-prosecution hence, it cannot be said that the respondent No.2 is not the owner of the property in question.

5. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

6. As under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act'), only the owner of a property can seek eviction in case, the ingredients required for the eviction are proved before the District Magistrate, who has been given power to pass such kind of order on an application moved under the 2007 Act. The finding has to be given that whether the senior citizen claiming eviction of the respondents is the owner of the property in question before passing an order in favour of the senior citizen. In the present case, no such finding has been recorded as to how, respondent No.2 has been able to prove his ownership of the property in question especially when the same was being disputed at the hands of the petitioners that the same is an ancestral property in which, the petitioners also have a share, whereas the respondent No.2 is claiming ownership on the basis of an agreement to sell.

7. Keeping in view the facts and circumstances of the present case

as, the required findings have not been recorded before passing of the



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impugned order, the impugned order is set aside the case is remanded back to the District Magistrate concerned for passing an order afresh after recording a categoric finding based upon the evidence which has come on record whether, respondent No.2 is the exclusive owner of the property in question so as to seek relief against the petitioner.

8. Present petition is disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

13.01.2025
Rimpal

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