



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(277)

CWP No. 5605 of 2023 (O&M)

Date of Decision : 13.01.2025

Veerpal Kaur

...Petitioner

Versus

Additional District Magistrate and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.S. Sidhu, Advocate for the petitioner.

Mr. Baljinder Singh, D.A.G., Punjab.

Mr. Munish Garg, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 17.01.2023 (Annexure P-1) passed by the Additional District Magistrate, Barnala exercising powers under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act').

2. Learned counsel for the petitioner submits that the power of eviction, as per the action plan framed by the State of Punjab vide Notification dated 27.11.2014 so as to comply with Section 22 of 2007 Act, has been given to the District Magistrate whereas, the impugned order dated 17.01.2023 (Annexure P-1) has been passed by the Additional District Magistrate, which is without jurisdiction, hence, the said order is not valid and is liable to be set-aside.



3. Learned counsel appearing on behalf of respondent No. 2 has not been able to rebut the fact that as per the Notification of the Government of Punjab dated 27.11.2014 only the District Magistrate has a power to pass an order exercising powers qua Section 22 of 2007 Act wherever an application has been received for eviction.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It may be noticed that keeping in view the Notification dated 27.11.2014 the jurisdiction to pass appropriate order on the claim raised for eviction under Section 22 of 2007 Act lies with the District Magistrate and in the present case, the order has been passed by the Additional District Magistrate with whom no authority exists, hence, the impugned order dated 17.01.2023 (Annexure P-1) is without any jurisdiction.

6. Learned counsel for the respondents has not been able to show any document that at any given point of time, the Additional District Magistrate who has passed the impugned order, had the jurisdiction to pass an order on the application filed by respondent No. 2 seeking eviction of the petitioner from the property concerned.

7. At this stage, learned counsel for the respondent No. 2 submits that the impugned order shows that the Additional Deputy Commissioner was enjoying the powers under the delegation by the District Magistrate.

7. It may be noticed that unless and until there is a power given to delegate, the powers cannot be delegated. Learned counsel for respondent No. 2 has not been able to show any order or the jurisdiction that once the Notification of the Government of Punjab dated 27.11.2014 only empowers



the District Magistrate to pass order under 2007 Act, the District Magistrate can further delegate the same. Once, the Notification of the State of Punjab only empowers the District Magistrate to pass an order of eviction, the said powers cannot be delegated to any subordinate authority as the same will be contrary to the Notification dated 27.11.2014.

8. Keeping in view the above, the order dated 17.01.2023 (Annexure P-1) passed by the Additional District Magistrate is set-aside. The case is remanded back to the District Magistrate for proper adjudication by the authority competent keeping in view the application filed by respondent No. 2.

9. Present petition is disposed of in above terms.

10. Pending miscellaneous application, if any, also stands disposed of.

January 13, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No