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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11020-2022 (O&M)

Date of Decision : 01-08-2025

SUMAN

.....Petitioner

VERSUS

NAIB SUBEDAR BANSI LAL (RETD.) AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Narender Singh, Advocate
for the petitioner.

Mr. Pawan K. Sharma, Advocate
For respondent No.1.

Mr. Babbar Bhan, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the prayer of the petitioner is that the petitioner is the daughter-in-law of the respondent-Senior Citizen and there is a matrimonial dispute persisting between the petitioner and respondent No.2-son of the respondent No.1-Senior Citizen and the petitioner had already availed the remedy under the Domestic Violence Act, 2005 and the competent court of law vide order dated 01.12.2021 (Annexure P-5), had granted injunction not to dispossess the petitioner from the premises in

question but still by the impugned order passed, petitioner has been directed to vacate the premises in question.

2. Learned counsel for the petitioner submits that in order to overcome the order of injunction granted in favour of the petitioner, the respondent-Senior Citizen filed an application under the Maintenance of Parents and Senior Citizen Act, 2007 (for short" 2007 Act") for evicting the petitioner as well as her husband-respondent No.2.

3. Learned counsel for the petitioner submit that actual intent behind filing of the said application was only to evict the daughter-in-law keeping in view the fact that there existed a matrimonial dispute between the petitioner and her husband and the petitioner is living independently on the first-floor of the accommodation in question without making any interference in the life of the respondent-Senior Citizen.

4. Learned counsel for the petitioner further submits that the authority envisaged under the 2007 Act have passed an order on 05.05.2022 (Annexure P-8) directing the petitioner to vacate the premises in question on the ground that the house belongs to the respondent-Senior Citizen and he has a full right under the 2007 Act to get the same vacated from the petitioner and respondent No.2-son of the respondent No.1-Senior Citizen.

5. Learned counsel for the petitioner submits that while passing the said order dated 05.05.2022, the order dated 01.12.2021 (Annexure P-5) passed by the competent court of law under the Domestic Violence Act, 2005 wherein, the respondent-Senior Citizen has been restrained from dispossessing the petitioner from her shared household, has not even been noticed hence, the order dated 05.05.2022 (Annexure P-8) passed by the

authorities exercising jurisdiction under the 2007 Act, may kindly be set aside.

6. Learned counsel appearing on behalf of the respondent-Senior Citizen concedes the factum of the passing of the order dated 01.12.2021 (Annexure P-5) by which, the respondent-Senior Citizen has been restrained from dispossessing the petitioner from the accommodation in question.

7. Learned counsel for the respondent No.1-Senior Citizen submits that the Domestic Violence Act, 2005 and the 2007 Act are two different Acts hence, the jurisdiction existed with the authorities to evict the petitioner under the 2007 Act and further submits that that there exists no matrimonial dispute and between the petitioner-daughter-in-law and her husband and they both are living in a harmonious manner.

9. I have heard the learned counsel for the parties and have gone through the records of the present case with their able assistance.

10. It is a conceded position that even as of today, the order dated 01.12.2021 (Annexure P-5) passed by competent Court of Law under the Domestic Violence Act, 2005 directing the respondent-Senior Citizen not to dispossess the petitioner from the house in question is in operation.

11. Once, the said order dated 01.12.2021 has been passed under the Domestic Violence Act, 2005 and the same is in operation even as of now, the same has to be taken into consideration while deciding the claim of the respondent No.1-Senior Citizen under the 2007 Act.

12. In the present case, ignoring the said order dated 01.12.2021 (Annexure P-5) passed by the competent authority under the 2005 Act, the authorities envisaged under the 2007 Act have directed the petitioner to vacate the accommodation in question, which order is contrary to the order

dated 01.12.2021 (Annexure P-5) passed by the competent court of law by which the petitioner has been allowed to retain the premises.

13. It is important to note here that no contradictory order could have been passed by the authorities envisaged under the 2007 Act on an application filed by respondent-Senior Citizen especially when the respondent-Senior Citizen was bound by the order of the Court dated 01.12.2021 (Annexure P-5) passed under the Domestic Violence Act, 2005.

14. Further the said issue has already been decided by the Hon'ble Supreme Court of India in Civil Appeal No.3822 of 2020 titled "***Smt. S. Vanitha Vs.The Deputy Commissioner, Bengaluru Urban District and ors.***", decided on 15.12.2020, wherein it has been held that, where the daughter-in-law has a right to share the matrimonial house and has raised a claim under the Domestic Violence Act qua the same and has consequently got a favourable order, the said favourable order has to be given due consideration while passing an order of eviction against the daughter-in-law under 2007 Act.

15. In the present case, the authorities concerned under the 2007 Act have totally ignored the order dated 01.12.2021 (Annexure P-5) passed by Competent Court of Law under the 2005 Act in favour of the petitioner, which order binds the respondent-Senior Citizen as well hence, the order dated 05.05.2022 (Annexure P-8) passed by the authorities exercising jurisdiction under the 2007 Act is contrary to the facts and the evidence brought on record and the same is contrary to the judgment in ***S. Vanitha's case (supra)***, hence, the present order dated 05.05.2022 (Annexure P-8) cannot sustain and the same is accordingly set aside.

16. At this stage, learned counsel for the respondent-Senior Citizen submits that liberty be given to challenge the order dated 01.12.2021 (Annexure P-5). In case, the respondent-Senior Citizen has a right to challenge the said order, this Court's permission is not required. In case, the respondent-Senior Citizen wants to challenge the order dated 01.12.2021 (Annexure P-5), he can do so in accordance with the law, in case the same is permissible.

17. Present petition is allowed in the above terms.

18. Pending application, if any, also stands disposed of.

01-08-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO