

CM-1454-CWP-2025 and
CM-1455-CWP-2025 in/and
CWP-9167-2023 (O&M)

2025:PHHC:019310



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101+215)

CM-1454-CWP-2025 and
CM-1455-CWP-2025 in/and
CWP-9167-2023 (O&M)
Date of Decision : 10.02.2025

Rajinder Parkash Bhardwaj and another

...Petitioners

Versus

Sandeep Bhardwaj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepanshu Matya, Advocate for the petitioners.

Mr. Manav Bajaj, Advocate with
Mr. Karandeep Deswal, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

CM-1455-CWP-2025

Application is allowed, as prayed for.

CM-1454-CWP-2025

Present application has been filed for placing on record certain documents as Annexures P-22 and P-23, which according to the petitioner, are very relevant for the decision of the present petition.

Application is allowed and the documents as Annexures P-22 and P-23 are taken on record with all just exceptions.



CWP-9167-2023 (O&M)

1. In the present petition, the grievance being raised by the petitioners-senior citizens is that they are the exclusive owner of the House No. 207, Sector-6, Karnal and keeping in view the fact that the relations between the petitioners and their son as well as daughter-in-law, who have been impleaded as respondents No. 1 and 2 are not cordial and various litigation have been initiated by both the parties against each other including the filing of complaint dated 22.06.2022 (Annexure P-9) for theft by the petitioners against their son, Sandeep Bhardwaj-respondent No. 1. Further FIR was also lodged at the intervention of the Court and the daughter-in-law-respondent No. 2 filing a complaint for the domestic violence against the petitioners-senior citizens. The petitioners who are the senior citizens as both of them are more than 70 years old, claim that they are entitled to live in their house peacefully to the exclusion of the private respondents No. 1 and 2, hence, the order which has been passed by the authorities concerned dated 05.09.2022 (Annexure P-11) rejecting their claim only on the ground that the petitioners are living on the ground floor and the respondent No. 1-son is living on the Ist floor, is no ground to direct eviction of the respondent No. 1-son and his wife, is liable to be set-aside.

2. Learned counsel for the petitioners-senior citizens submits that keeping in view the deteriorating relations between the parties and constant litigation between them, the petitioners-senior citizens are not able to live peacefully in the house concerned, which is their exclusive ownership, hence, merely that the son is living on the Ist Floor does not mean that the



petitioners can live peacefully on the ground floor especially when both the parties come face to face everyday. Learned counsel for the petitioners-senior citizens argues that the order dated 05.09.2022 (Annexure P-11) may kindly be set-aside and the application filed by the petitioners-senior citizens under Section 22(2) of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act') may kindly be allowed.

3. Learned counsel appearing on behalf of the respondent No. 1-son concedes that property in question from which eviction of respondents No. 1 and 2 is sought is the ownership of the petitioners-senior citizens but submits that it is a case of property dispute between the sons of the petitioners as the other son of the petitioners are behind the litigation, which has been initiated under 2007 Act hence, the order dated 05.09.2022 (Annexure P-11) passed by the Tribunal that there is no interference by the respondents No. 1 and 2 with the petitioners-senior citizens as both are living on the separate floor is perfectly valid and, therefore, the present petition may kindly be dismissed.

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

5. The question is that as for what purpose the 2007 Act was enacted. The main reason was that the petitioners-senior citizens should be able to live a peaceful and dignified life without there being any disturbance from anybody.



6. In the present case, there is a litigation going on between the parties and there are allegations and counter allegations. As per the fresh allegations, the petitioners-senior citizens have alleged the theft against the respondent No. 1-son whereas, the daughter-in-law of the petitioners who is the respondent No. 2 has alleged the allegation of domestic violence against senior citizens. The litigation is being faced by both the parties.

7. Keeping in view the aforementioned facts, once the parties are litigating and the house i.e. House No. 207, Sector-6, Karnal from where the eviction is sought, is the exclusive property of the petitioners-senior citizens, the petitioners-senior citizens have a right to live in the said house peacefully to the exclusion of the respondent No. 1-son, who is litigating against the petitioner-father on various allegations. Once, the petitioner-father has alleged the allegation of theft and an FIR has also been registered at the intervention of the Court, it is a fit case where, the petitioners-senior citizens are entitled to the benefit of eviction of the son, with whom they do not have a cordial relations and rather the sour relations have turned into litigation between the parties.

8. Learned counsel for the respondents has relied upon the judgment of this Court passed in CWP No. 10976 of 2017 titled as ***Ishar Dass Vs. District Magistrate, Jalandhar and another***, decided on 22.05.2018, to contend that there has to be a material so as to hold that the harassment of the senior citizen was being done and there should not be a mere property dispute, which should lead to the eviction of one son at the asking of the others. Learned counsel submits that in the present case, there



is no such material existed due to which the District Magistrate rightly passed an order dated 05.09.2022 (Annexure P-11) that eviction of the respondent No. 1-son is not to be affected on the asking of the petitioners-senior citizens.

9. In this regard, it may be noticed that in the present case, there exists adequate material against the respondent No. 1-son as, the respondent No. 1-son has been accused of a theft and the said FIR has been lodged at the intervention of the Court. Further, the daughter-in-law has already filed a complaint before the authorities concerned for domestic violence against the petitioners-senior citizens. These facts are enough to show that the material evidence exists to show that the parties are logger head i.e. the petitioners-senior citizens and the respondent No. 1 and the present petition has been filed by the petitioners-senior citizens so as to protect themselves from the harassment caused by the respondents No. 1 and 2 and further to evict the respondents to live a peaceful life at the property concerned.

10. Learned counsel for the respondents submits that the allegations of FIR are after the decision of the Tribunal. It may be noticed that once this Court is exercising jurisdiction under Article 226 of the Constitution of India, the facts which exist as of now, should be taken into account to decide whether any benefit is given to the petitioners-senior citizens or not under 2007 Act. The facts as noticed here-in-before cannot be ignored merely on the ground that the same came into existence after the passing of the orders by the authorities concerned.



11. Keeping in view the totality of the facts and circumstances of the present case, the order dated 05.09.2022 (Annexure P-11) is set-aside and the direction is given to the respondent-son along with Respondent No. 2-daughter-in-law to vacate the house in question which is in his possession i.e. House No. 207, Sector-6, Karnal.

12. Keeping in view the fact that the children of the respondent-son are studying and are to appear in the examination, the respondent-son is given time upto 30.06.2025 to vacate the aforementioned premises.

13. Petition is allowed in above terms.

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

February 10, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No