

**CWP-16425-2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(103)****CWP-16425-2024****Date of Decision : January 21, 2025****Savita Rani @ Savita Nahar****.. Petitioner****Versus****State of U.T. Chandigarh and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Pranav Handa, Advocate, and
Mr. G.S. Virk, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the application filed under Sections 21 and 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as '2007 Act'), seeking protection of life and eviction of private respondent from the premises owned by the petitioner has been rejected by the Tribunal vide order dated 24.01.2024 (Annexure P-1).

2. Learned counsel for the petitioner submits that the claim of the petitioner for evicting the private respondent from the premises in question has wrongly been denied on the ground that the petitioner, who is living in England, can only get the house vacated under the Rent Act and not under the 2007 Act and further that nothing has come to the notice of the Tribunal that there is a danger to the life and liberty of the petitioner at the hands of the private respondent or there is any claim of the petitioner that she is not being maintained by the private respondent.

**CWP-16425-2024****2**

3. Learned counsel for the petitioner further submits that once, the petitioner is the owner of the premises in question, she has full right to get the house vacated under 2007 Act hence, the respondents authorities were under an obligation to pass an appropriate order evicting the private respondent.

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

5. It is undisputed fact that the petitioner is living in England and is a British citizen. It is also conceded during the arguments that the petitioner is living in England for the last two to three decades.

6. Further, as per conceded fact, the petitioner is the aunt of private respondent (*Masi*) and the respondent's mother was residing with him in the said house till she unfortunately died in the year 2017.

7. The question which arises is whether, senior citizen, who is not claiming maintenance or has raised the issue of welfare or has projected any kind of threat at the hands of the private respondent, can seek the eviction by summary proceedings under the provisions of 2007 Act or not.

8. It may be noticed that 2007 Act has been enacted so that the senior citizen and the parents are maintained and their welfare is looked after by the children or by the person to whom the said senior citizen has transferred his/her property. In case, the only motive of the senior citizen, is the eviction without there being any assertion for maintenance or welfare qua the person whose eviction is being sought, the claim has to be raised under the Rent Act. The right to eviction under the Rent Act cannot be substituted with the 2007 Act. A special act enacted for a particular reason

**CWP-16425-2024****3**

so as to ensure the welfare and protection of the senior citizen for being abused at that stage of life when they have no one to look after them, cannot be used to get the eviction of the occupant without there being any allegation of maltreatment. In the present case, the petitioner is a British citizen and hardly visits India. There is no allegation that the private respondent was bound to maintain the petitioner and as he is not maintaining and the petitioner does not have any other place to live hence, the property being possessed by the private respondent be vacated to be used by the petitioner.

9. Further, learned counsel for the petitioner has failed to point out any averment in the application that the petitioner had threat to her life and liberty at the hands of the private respondent so as to live a dignified life as enshrined under Article 21 of the Constitution of India so as to invoke the provisions of 2007 Act so as to evict the private respondent.

10. Further, no reason has come forward for eviction of the private respondent, which is a valid reason under 2007 Act so as to secure the eviction. It is not even the case of the petitioner even as of now that she intends to shift to India and live in the said house. The petitioner occasionally visits India and that too for tourism.

11. Keeping in view the said facts, *prima facie*, this Court is of the view that the prayer made by the petitioner is with the sole motive to get the private respondent evicted by misusing the provision of 2007 Act.

12. Further, a competent authority under 2007 Act has already passed an order declining the application of the petitioner for the grant of relief of the eviction. The relief under Article 226 of the Constitution of

**CWP-16425-2024****4**

India is a discretionary relief to be given so as to ensure justice is done. Under Article 226 of the Constitution of India, not only the justice is required to be done but it has also to be ensured that no injustice is also done to any party. Once, the authorities under 2007 Act as well as this Court have come to the conclusion that the petitioner's sole motive is to get the private respondent evicted from the property in question, the petitioner has to avail appropriate remedy for eviction before appropriate forum by following due process of law and not by adopting the summary proceedings as envisaged under 2007 Act.

13. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Accordingly, the writ petition is dismissed.

January 21, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No