

2025:PHHC:000727



CM-16463-CWP-2024 in/and :1:
CWP-19379-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101+202

CM-16463-CWP-2024 in/and
CWP-19379-2022
Date of decision : 07.01.2025

BANITA

..... Petitioner

VERSUS

APPELLATE TRIBUNA-CUM-DEPUTY COMMISSIONER,
BHIWANI AND ORS.

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Gaurav Jindal, Additional AG, Haryana.

Mr. V. P. Sangwan, Advocate
for respondents No.3 and 4.

Harsimran Singh Sethi, J. (Oral)

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This application is for placing on record replication to the reply
filed by respondents No.3 and 4.

Application is allowed as prayed for.

Replication is taken on record, subject to just exceptions.

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1. In the present petition, the grievance being raised by the
petitioner is that she is aggrieved by a direction that had been given on



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23.07.2019 (Annexure P-3) by respondent No.2-Chairman Tribunal that the petitioner should live in the ancestral house by vacating the present premises, which order of the Tribunal has been upheld by the Appellate Authority on 23.06.2022 copy of which has been appended as Annexure P-5.

2. As per learned counsel for the petitioner, the petitioner was initially married to elder son of the respondents namely, Ashok, who had unfortunately passed away. Thereafter, petitioner was married with the younger brother of Ashok namely, Rajpal and out of the said wed lock, there is a girl child born namely, Priyanka. The respondents' father-in-law who is aged 75 years as well as the mother-in-law who is aged 70 years, filed a petition under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act') for evicting the petitioner from the premises in question where petitioner is in possession of two rooms so as to reallocate her to the ancestral house.

3. The said application was decided by the Tribunal on 23.07.2019 (Annexure P-3) and keeping in view the report of the Tehsildar that there is a house of the respondents-applicants which is also located in the Abadi Deh of village Lohani, the direction was given that the petitioner should live in the said ancestral house instead of the property which she is actually residing.

4. The order passed by the Tribunal dated 23.07.2019 was challenged before the appellate authority on the ground that the said ancestral house is in a depleted form and is being used for storage of fodder

and the petitioner who has a young daughter, cannot live there. Further, it



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was mentioned that the portion of the house where the petitioner is living having two rooms, has a separate entry and does not have an interlinked connection with the house of the parents-in-law and therefore, the only reason given is to oust them from the present accommodation so as to relocate them is arbitrary and illegal and is not within the essence of provisions of 2007 Act.

5. The Deputy Commissioner dismissed the said appeal with the observation that the findings of the Tribunal needs no interference. Hence, the present petition.

6. Learned counsel for the petitioner submits that once, the petitioner was earlier married with the elder son of the respondents, who unfortunately passed away and thereafter, she was married with the second son, who has now left her in order to gain the company of another lady, efforts are being made to oust the petitioner from the premises in question which is her matrimonial home on one pretext or the other which is arbitrary and illegal. Learned counsel for the petitioner further submits that the petitioner is a house wife and does not have any source of income and hence, the order passed by the Tribunal as well as the Appellate Court are liable to be *set aside*.

7. Learned counsel appearing on behalf of the respondents submits that once the house in question belongs to the senior citizens they can avail the eviction of the daughter-in-law and in the present case, they are only reallocating the daughter-in-law their ancestral house which request has

already been accepted by the Tribunal, also upheld by the Appellate Court



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and therefore, the writ petition may kindly be dismissed.

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

9. The factum that the portion of the property the which is in possession of the petitioner is separate than the portion where the senior citizens are residing, is conceded. Further, it is also not disputed that the entrance to the respective portions is separate. Once, the petitioner is the daughter-in-law of the senior citizens, whose first husband has passed away and the second husband, who is the younger son of the senior citizens, has left her to join the company of another woman, ousting her will create more hardship not only for daughter-in-law but also for her young daughter. The accommodation which is being offered to them is being described as an ancestral house though, the same was only being used to store fodder for the animals and is in a depleted form. Without ascertaining all these facts, the Tribunal as well as the lower Appellate Court has passed the order granting the relief to the senior citizens. The Tribunal as well as the Appellate Court are duty bound to examine the facts of each case whether, the prayer of the senior citizens is *bona fide* and is liable to be granted for their smooth and happy living or, the purpose is to exclude or evict one of their family member without any valid justification. In the facts and circumstances of the present case, the order passed by the Tribunal as well as the Appellate Court does not deal with the issue at all whether, the petitioner who is the daughter-in-law of the family and has right to remain in the matrimonial house which is in her possession alongwith her young daughter, should be



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evicted so as to reallocate at a place which is not suitable for the two ladies to live alone, or not.

10. Keeping in view above, the order dated 23.07.2019 (Annexure P-3) passed by the Tribunal as well as by the Appellate Court dated 23.06.2022 (Annexure P-5) are set aside. The petitioners will remain within the portion which is in their occupation.

11. Learned counsel for the petitioner has undertaken before this Court that there will be no interference in the life of the senior citizens so as to harass them in any manner and they will live peacefully without creating any problem for the senior citizens.

**(HARSIMRAN SINGH SETHI)
JUDGE**

07.01.2025

Rimpal

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