



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(246) CWP No. 19389 of 2024 (O&M)
Date of Decision : 07.01.2025

Jasbir Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nitin Gupta, Advocate for the petitioner.
Ms. Shruti, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-11-CWP-2025

Present application has been filed for placing on record order dated 22.10.2024 as Annexure P-13).

Application is allowed and order dated 22.10.2024 is taken on record as Annexure P-13 with all just exceptions.

CWP-19389-2024

1. In the present petition, the challenge is to the order dated 27.06.2024 (Annexure P-11) passed by the Tribunal by which, the application filed by the petitioner under Section 23 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as '2007 Act') has been declined on the ground that the Tribunal does not have power to pass an order of eviction of the respondents even if the house belongs to the Senior Citizen/petitioner.



2. Learned counsel for the petitioner submits that the reason given by the Tribunal to reject the claim of the petitioner is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 10927 of 2024 titled as ***Urmila Dixit Vs. Sunil Sharan Dixit and others***, decided on 02.01.2025.

3. Learned counsel for the respondents has not been able to rebut that keeping in view the judgment of the Hon'ble Supreme Court of India in ***Urmila Dixit's case (supra)***, the Tribunal has power under the 2007 Act itself to pass an order of eviction in case, the circumstances as well as the fact requires the said relief.

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 the claim of the petitioner has been rejected by the Tribunal on the ground that no order of eviction can be passed despite the fact that the senior citizen/petitioner is the owner of the house in question and she is not able to live peacefully and dignified life as envisaged under Article 21 of the Constitution of India.

6. The question of law as to whether, the Tribunal has power to pass an order of eviction in case the facts and circumstances requires, has already been settled by the Hon'ble Supreme Court of India in ***Urmila Dixit's case (supra)***, wherein it has been held that the Tribunal has power to pass the order of eviction under the Act itself. Relevant paragraph 24 of the said judgment is as under :-

“24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the



competency of the Tribunal to hand over possession of the property. In S. Vanitha (supra), this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under [Section 23](#), cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.”

7. Keeping in view the said settled principle of law, the order dated 27.06.2024 (Annexure P-11) passed by the Tribunal cannot be sustained and is accordingly set-aside. The Tribunal is directed to restore the application filed by the petitioner and decide the same in accordance with law keeping in view the observation of the Hon’ble Supreme Court of India in ***Urmila Dixit’s case (supra)*** and as the petitioner is senior citizen and according to her allegation, she has been thrown out of the premises owned by her, it will be in the interest of justice that after giving due opportunity of hearing to all the parties, appropriate order is passed within a period of three months of receipt of copy of this order. It will be open to the Tribunal to pass interim order in case, the welfare of the senior citizen requires such kind of order.

8. Petition is allowed in above terms.

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

January 07, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No