

**CWP-20450-2024****1**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(207)**CWP-20450-2024****Date of Decision : July 30, 2025****Ishwari Devi****.. Petitioner**

Versus

**District Magistrate-cum- Chairman, Appellate Tribunal, Panipat,
District Panipat and others**

.. Respondents**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Jarnail Singh Saneta, Advocate, for the petitioner.

Ms. Mansi, Advocate, for
Mr. Bhisham Kumar Majoka, Advocate,
for respondents No. 3 and 4.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the prayer of the petitioner-senior citizen is that House No.199, Tehsil Camp, Near Mansa Ram School, Vikas Nagar, District Panipat, which is occupied by respondents No. 3 and 4, be vacated so that the petitioner-senior citizen can peacefully live in the said premises.

2. Learned counsel for the petitioner-senior citizen submits that the house in question belongs to the petitioner-senior citizen and the same is being occupied by respondents No. 2 to 4 against the wishes of the petitioner-senior citizen and therefore, the direction be issued to respondents No. 2 to 4 to vacate the same so that the petitioner-senior citizen can live peacefully in the said premises so as to lead a dignified life.



3. The argument of the learned counsel for the petitioner-senior citizen is that all the facts have not been appreciated by the Tribunal as well as the Appellate Authority envisaged under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as '2007 Act') while denying the claim of petitioner-senior citizen for direction to respondents No. 2 to 4 for vacation of the house in question and rather, respondent No.2 has only been directed to pay a sum of Rs.10,000/- for the maintenance of the petitioner-senior citizen, which relief is not good enough for the petitioner-senior citizen.

4. Upon notice of motion, the respondents No. 3 and 4 have appeared.

5. Learned counsel appearing on behalf of respondents No. 3 and 4 submits that respondent No.2, who is the son of the petitioner-senior citizen is settled in Gujarat and has already performed another marriage and is not taking care of respondent No.3 (wife of respondent No.2) and the two daughters born out of the wedlock between respondents No.2 and 3.

5. Learned counsel for respondents No. 3 and 4 further submits that respondents No. 3 and 4 have no other place to live in other than the premises in question, and the premises in question being the matrimonial house of respondent No.3 (daughter-in-law), she has a full right to stay in the said house.

6. Learned counsel for respondents No. 3 and 4 further submits that the petitioner-senior citizen is living in Delhi for the last more than one decade and the said house in which the petitioner-senior citizen is living in Delhi, has been purchased by respondent No.2 but, in the name of his sister



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i.e. the daughter of the petitioner-senior citizen and both the houses i.e. the house where the petitioner-senior citizen is residing and the house of the daughter of the petitioner-senior citizen being opposite to each other, and for the past 11 years, the petitioner-senior citizen has never even stayed for a single day in Panipat, especially in the premises in question.

7. Learned counsel for respondents No. 3 and 4 further submits that as the house is being sought to be vacated from three women i.e. the respondent No.3-daughter-in-law and two grand daughters, who do not have any support from their father i.e. respondent No.2, who is living in Gujarat, hence, it is the prayer of the respondents No. 3 and 4 that they may kindly be allowed to live in the said house so that these three women can live a dignified life rather being thrown on street without any shelter and forced to live like a destitute.

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

9. Though, the right of eviction is inherent under 2007 Act but as per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.4442 of 2025 titled as Samtola Devi vs. State of Uttar Pradesh and others, decided on 27.03.2025***, the same has to be decided keeping in view the facts and circumstances of each case and it is not a case that once a senior citizen makes his claim for eviction, an eviction order has to be passed mandatorily while ignoring the facts and circumstances of the present case. The relevant paragraphs of the said judgment are as under:-

“31. The provisions of the Senior Citizens Act, nowhere specifically provides for drawing proceedings for eviction of persons from any premises owned or belonging to such a 15



senior person. It is only on account of the observations made by this Court in *S. Vanitha vs. Commissioner, Bengaluru Urban District & Ors*⁵ that the Tribunal under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. The Tribunal thus had acquired jurisdiction to pass orders of eviction while exercising jurisdiction under Section 23 of the Senior Citizen Act which otherwise provide for treating the sale of the property to be void if it is against the interest of the senior citizen.

32. The aforesaid decision was followed by this Court in *Urmila Dixit (supra)*. However, even in the aforesaid case the court has only held that in a given case, the Tribunal “may order” eviction but it is not necessary and mandatory to pass an order of eviction in every case. The Appellate Tribunal has not recorded any reason necessitating the eviction of Krishna Kumar or that in the facts and circumstances of the case, it is expedient to order eviction so as to ensure the protection of the senior citizen.

33. In our opinion, the Appellate Tribunal was, therefore, not justified in ordering for his eviction merely for the reason that the property belongs to Kallu Mal, completely ignoring the fact that the claim of Krishna Kumar regarding 1/6th share and the cancellation of gifts and sale deeds is pending adjudication before the civil court.

34. In our opinion, in the facts and circumstances of the case, there was no necessity for the extreme step for ordering the eviction of Krishna Kumar from a portion of the house rather the purpose could have been served by ordering maintenance as provided under Section 4/5 of the Senior Citizens Act and by restraining him from harassing the parents and interfering in their day-to-day life.”



10. The facts of the present case is that the petitioner-senior citizen is living in Delhi for more than one decade and that too, as per the respondents, in the house which has been purchased by son i.e. respondent No.2 though the said house has been bought in the name of sister of respondent No.2 i.e. the daughter of the petitioner-senior citizen. Further, nothing has come on record to show that the petitioner-senior citizen has even visited Panipat in the last one decade so as to live in the said house in question.

11. Further, in the said house in question situated at Panipat, there is already a room which is lying vacant where the petitioner-senior citizen can come and live in case she intends to. The Court also has to balance the claim of the respondent No.3-daughter-in-law as well as two grand daughters of the petitioner-senior citizen who do not have any kind of support from respondent No.2 i.e. husband of respondent No.3 and father of respondent No.4. As per the allegations alleged against respondent No.2-father of respondent No.4, he is having his own family in Gujarat and does not take care of the children.

12. The grand daughter-respondent No.4, who is present in the Court, has submitted that she had got admission in B.D.S course, but due to non-deposit of the fees by the father for the said course, after the first year, she could not continue to study in the institution and the conditions laid by the father in lieu of paying the fee for said course was to vacate the house in question, which in case is true, act attributed to respondent No.2 does not behave of a father to treat the daughter in a manner which the daughters of this country required to be treated and brought up.

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13. Further, nothing has come on record to show that there is a regular interaction between the petitioner-senior citizen and the respondents as they are living at different places i.e. the petitioner-senior citizen is living in Delhi and the respondents are living in Panipat hence, the assertion of the petitioner-senior citizen that respondent No.3-daughter-in-law abuses the petitioner-senior citizen, is also not proved.

14. Keeping in view the totality of the circumstances, as the petitioner failed to prove that the order passed by the authorities concerned not directing respondents No. 3 and 4 to vacate the house in question, is not perverse either to the facts or evidence on record on the settled principle of law and hence, needs no interference at the hands of this Court.

15. Accordingly, the writ petition is dismissed.

July 30, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No