



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CWP No. 23831 of 2022 (O&M)

Date of Decision : 17.03.2025

Dr. Sachayta

...Petitioner

Versus

Additional Deputy Commissioner-cum-Collector, Jagraon and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nishant Arora, Advocate for
Mr. Gaurav Mohunta, Advocate for the petitioner.

Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.

Mr. Sushant Kareer, Advocate for respondent No. 2.
(Joined through Video Conferencing)

Mr. Shaurya Khanna, Advocate for respondent No. 3.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is against the impugned order dated 18.08.2022 (Annexure P-1) vide which she has been directed to vacate the premises which is her matrimonial house, which order is incorrect as, the petitioner is the legally wedded wife of the son of the respondent No. 2-senior citizen and the petitioner is being asked to vacate the suit premises in question as there is a matrimonial dispute persisting between the petitioner and their son i.e. respondent No. 3.



2. Learned counsel for the petitioner submits that without appreciating the above mentioned fact, the impugned order dated 18.08.2022 (Annexure P-1) has been passed by authority exercising jurisdiction under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act'). Learned counsel for the petitioner further submits that as per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 3822 of 2020 (Arising out of SLP (C) No. 29760 of 2019) titled as ***Smt. S Vanitha Vs. The Deputy Commissioner Bengaluru Urban District & Ors.***, decided on 15.12.2020, wherein it has been held that in a case where the proceedings under the Domestic Violence Act, 2005 have been initiated and consequently an interim order has been passed in favour of daughter-in-law, the authority concerned exercising jurisdiction under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act') has to pave way for the convenience of the daughter-in-law and has to duly ensure that whether the motive qua the order being sought under 2007 Act is just for eviction of the daughter-in-law or for the purpose for which 2007 Act has been enacted. Learned counsel for the petitioner submits that the impugned order dated 18.08.2022 (Annexure P-1) passed by the authorities exercising jurisdiction under 2007 Act is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in ***Smt. S. Vanitha's case (supra)*** and liable to be set-aside.

3. Learned counsel appearing on behalf of respondent No. 2-senior citizen submits that the respondent No. 2-senior citizen owns the premises in question and has no other house to live in and as there is a matrimonial



dispute persisting between the petitioner and respondent No. 3, the life of the respondent No. 2-senior citizen is being wasted on account of their matrimonial dispute. Learned counsel further submits that once this becomes an undisputed fact that the property in question belongs to the respondent No. 2-senior citizen then it is the senior citizen who has an exclusive right to decide as to who will live in the said property hence, the impugned order which has been passed by the authorities exercising jurisdiction under 2007 Act is perfectly valid and legal and the writ 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. Certain facts have gone undisputed. The petitioner is the daughter-in-law of respondent No. 2-senior citizen and is married to her son, namely, Dr. Simran Bali i.e. respondent No. 3. Further, it is also a conceded position that the daughter-in-law has raised a dispute under the Domestic Violence Act, 2005 and vide order dated 06.09.2023 passed by learned Additional Session Judge, Ludhiana, she has been granted the benefit of retaining the shared household. Keeping in view the totality of the facts, the impugned order dated 18.08.2022 (Annexure P-1) which has been passed by the authorities exercising jurisdiction under 2007 Act is without appreciating the order dated 06.09.2023 passed by the Additional Session Judge, Ludhiana under the Domestic Violence Act, 2005.

6. Once, a Competent Court of Law has granted an order in favour of the petitioner while adjudicating the plea of the petitioner under Domestic Violence Act, 2005 and she has been allowed to retain the shared household



then the petitioner cannot be thrown out of the premises even under 2007 Act as the same will be contrary to an order passed by a Competent Court of Law.

7. The judgment of the Hon'ble Supreme Court of India in ***Smt. S. Vanitha's case (supra)*** comes to the rescue of the petitioner in the present case so as to grant her the benefit of occupying the house in question. The relevant paragraph 22 of the said judgment is as under :-

“22. This Court is cognizant that the Senior Citizens Act 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under Section 8. The jurisdiction of the Civil Courts has been explicitly barred under Section 27 of the Senior Citizens Act 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act 2005. The PWDV Act 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act 2005. Section 26 (27) of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained



from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act 2005 and Senior Citizens Act 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a 'shared household' under Section 17 of the PWDV Act 2005. In the event that the "aggrieved woman" obtains a relief from a Tribunal constituted under the Senior Citizens Act 2007, she shall duty-bound to inform the Magistrate under the PWDV Act 2005, as per Sub-section (3) of Section 26 of the PWDV Act 2005. This course of action would ensure that the common intent of the Senior Citizens Act 2007 and the PWDV Act 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization."

8. Keeping in view the totality of the circumstances, as the parties are litigating between each other and there is a matrimonial dispute persisting between the petitioner and her husband and the petitioner is already residing in the premises in question since long coupled with the fact that upon dispute raised by petitioner under Domestic Violence Act, 2005, there is an interim order dated 06.09.2023 passed by the Competent Court of Law allowing her to retain the shared premises, which is the same premises from where her eviction is sought, the order passed by the authorities under



2007 Act, copy of which has been appended as Annexure P-1, cannot sustain in the eyes of law.

9. Learned counsel for respondent No. 2-senior citizen submits that in the present case, the order which has been passed under the Domestic Violence Act, 2005 granting the shared premises to the petitioner is passed after the passing of the order passed under 2007 Act and further submits that the respondent No. 2-senior citizen exercised her right to claim the possession of the property in question under 2007 Act prior to even filing of the petition under Domestic Violence Act, 2005 by the petitioner and, therefore, the judgment passed in *Smt. S. Vanitha's case (supra)* will not come to the rescue of the petitioner in the present scenario.

10. It may be noticed that while deciding the issue with regard to the rights of the daughter-in-law in the shared household/matrimonial house, the Hon'ble Supreme Court of India in *Smt. S. Vanitha's case (supra)* has held that the Domestic Violence Act, 2005 and the 2007 Act, both sets of legislation have to be harmoniously construed keeping in view the orders passed by the authorities concerned.

11. In the present case, there is a matrimonial dispute persisting between the petitioner and her husband. The husband is coming to the rescue of the respondent No. 2-senior citizen that he is ready to provide the petitioner a separate house which shows that the intention of the respondents No. 2 and 3 is to throw the daughter-in-law out of the premises in question. Merely the assertion of the respondent No. 2-senior citizen that the proceedings under the Domestic Violence Act, 2005 were initiated by the petitioner after the respondent No. 2-senior citizen had availed the remedy



under 2007 Act, will be of no use to deny the daughter-in-law the benefit of the shared premises as the Competent Court of Law under Domestic Violence Act, 2005 has exercised its jurisdiction while passing the order in her favour so as to allow her to continue in the premises in question. In case, the prayer of the senior citizen is to be accepted and the petitioner is vacated from premises in question then the order passed by the Competent Court of Law under the Domestic Violence Act, 2005 allowing the petitioner to retain the accommodation will become redundant, which cannot be accepted.

12. The judgment in *Smt. S. Vanitha's case (supra)* is applicable in the present case as, when the question of retaining the accommodation raised by the daughter-in-law is decided, she has an order in her favour passed by the authorities concerned under the Domestic Violence Act allowing her to retain the matrimonial house.

13. Learned counsel for respondent No. 2-senior citizen further submits that the daughter-in-law started residing in the house when she was posted at Ludhiana. Prior to that she was living wherever she was posted and the house i.e. premises in question has been described as the shared matrimonial house by the authorities concerned under Domestic Violence Act, 2005. Whether the house in question is a shared premises or not is to be decided in the proceeding under the Domestic Violence Act, 2005. It may be noticed that the said argument is available only to the senior citizen or the husband and that too in the case relating to any dispute raised under the Domestic Violence Act, 2005 and not this present case relating to 2007 Act. The daughter-in-law has a right to live in the matrimonial house as she started living in the said house after she was posted in Ludhiana. She is



residing in the house for the last five years hence, the argument that the house in question is not matrimonial house, cannot be accepted to decide the claim under 2007 Act and as the same is to be adjudicated by the authorities concerned under the Domestic Violence Act, 2005 which authorities have already passed an interim order in favour of the petitioner-daughter-in-law.

14. Keeping in view the totality of the circumstances, the impugned order dated 18.08.2022 (Annexure P-1) passed by the authorities exercising jurisdiction under 2007 Act is set-aside. The petitioner is allowed to retain the said accommodation in question.

15. However, it may be noticed that as of now the proceedings initiated at the hands of the petitioner under the Domestic Violence Act are continuing where an interim order dated 06.09.2023 has been passed in favour of the petitioner allowing her to retain the matrimonial house. In case, after the said proceedings under the Domestic Violence Act, 2005, come to the conclusion, in case the senior citizen has a right to claim the premises under 2007 Act, she can avail the appropriate remedy before appropriate forum at that stage.

16. Petition is allowed in above terms.

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

March 17, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes