



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

204

CWP-21820-2023

Date of Decision:- 16.01.2025

Simaranjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.S. Dandiwal, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. K.R. Dhawan, Advocate for respondents No.4 and 5.

Mr. Arshit Goel, Advocate for respondent No.6.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance being raised by the petitioner is that the petitioner is married to respondent No.6 i.e. son of respondents No.4 and 5 and as there is a matrimonial dispute between respondent No.6 and the petitioner, respondents No.4 and 5 with a common intention to throw the petitioner out of matrimonial home, have availed the remedy under The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (in short, '2007 Act').

2. Learned counsel for the petitioner submits that while passing the impugned order dated 11.04.2023 (Annexure P/5), the Deputy Commissioner has not considered the relevant fact that the house in question is a matrimonial house of the petitioner and she has full right to



occupy the matrimonial house and by ignoring the settled principle of law on the said issue, merely on the ground that property is owned by respondents No.4 and 5, order of eviction has been passed, which is arbitrary and illegal.

3. Upon notice of motion, the respondents have filed reply wherein, the respondents have stated that once it is not in dispute that the property in question belongs to respondent No.4 and 5, they have full right to claim eviction of the petitioner as the respondents No.4 and 5 have danger to their life while allowing the petitioner to live along with them and further the son of the respondent No.4 and 5 i.e. respondent No.6 is already living somewhere else in a rented house hence, the petitioner should live along with her husband or any other place rather than troubling them.

4. Learned counsel for respondent No.6 concedes the factum that there is a matrimonial dispute between the respondent No.6 and the petitioner and he is already living in a rented premises outside the house in question which is owned by respondents No.4 and 5. Learned counsel for respondent No.6 submits that the respondent No.6 is ready to get another accommodation for the petitioner.

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

6. In the present petition, one clear fact which emerges is that there is a matrimonial dispute and the petitioner had raised the same before the authority concerned much before the filing of petition by the respondents No.4 and 5 under the 2007 Act. Further, keeping in view the stand taken by respondent No.6 that he is ready to get a separate



accommodation to the petitioner, it is clear that the only object is to get the house vacated from the petitioner. The same is not permissible. As per the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.3822-2020 titled as S. Vanitha vs. The Deputy Commissioner Bengaluru Urban District and others decided on 15.12.2020** the right of a woman to secure a residence in respect of the share household, the said right cannot be defeated by securing an order of eviction by adopting a summary procedure under the 2007 Act.

7. Learned counsel for the respondents has not been able to dispute the said principle of law settled by the Hon'ble Supreme Court of India, however, reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.10927-2024 titled as, Urmila Dixit vs. Sunil Sharan Dixit and others, decided on 02.01.2025.**

8. By applying the judgment in **S. Vanitha (supra)** in the facts and circumstances of the present case, it is a conceded fact that premises in question is a matrimonial house of the petitioner where she has a right to live.

9. The judgment in **Urmila Dixit (supra)**, which has been cited by the learned counsel for the respondents No.4 and 5 that the eviction is inherent under the 2007 Act, it may be noticed that there is no disagreement with the said proposition of law but whether, under all circumstances eviction is inherent that is to be seen. The eviction is to be ordered keeping in view the facts and circumstances of each and every case and the same cannot be fitted into a straight jacket formula so as to evict everyone on proving the ownership by the senior citizen. In case, the Court finds that



motive of eviction is other than the one envisaged under the 2007 Act, the Court can intervene to stop the injustice to be done to a lady, who otherwise has right to occupy the premises being the daughter-in-law of the senior citizen. The said facts have not been taken into account by the authorities concerned hence, the impugned order dated 11.04.2023 (Annexure P/5) is set aside. The Case is remanded back to the authority concerned to pass a fresh order in accordance with law by noticing the settled principle of law as noticed hereinbefore.

10. Present petition is disposed of in above terms.

January 16, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No