



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103+207)

CWP No. 26511 of 2022 (O&M)

Date of Decision : 07.01.2025

Subhash Chander and others

...Petitioners

Versus

Dhanpati and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Goyal, Advocate for the petitioners.

Mr. Anuj Malik, Advocate for respondent No. 1.

Respondent No. 2-Aditya Dhanda in person.

Harsimran Singh Sethi J. (Oral)

CM-20554-CWP-2022

As the main case is listed for hearing today, the present application seeking preponement of the date of hearing has become infructuous and the same is disposed of as such.

CWP-26511-2022 (O&M)

1. In the present petition, the challenge is to the order dated 10.11.2022 (Annexure P-4) by which the petitioners have been directed to be evicted under the Maintenance and Welfare of Parents and Senior Citizenship Act, 2007 (hereinafter referred to as '2007 Act').

2. Learned counsel appearing on behalf of the petitioners submits that there is no relationship between the petitioners and Dhanpati-respondent No. 1, who had initiated the proceedings against her grandson as well as the



petitioners under 2007 Act. Learned counsel for the petitioners further submits that the property in question was purchased by the petitioners from the son of respondent No. 1-Dhanpati, namely, Rajesh Kumar in the year 2009 and they are already residing and are in occupation of the said property since then and there is a civil litigation also going on between the petitioners and Rajesh Kumar qua the ownership of the property in question and now respondent No. 1-Dhanpati has invoked the provisions of the 2007 Act only to oust the petitioners from the property in question in connivance with Aditya Dhanda, who is the son of Rajesh Kumar from whom the petitioners have alleged to have purchased the said property.

3. Learned counsel for the petitioners submits that the property is being claimed by Dhanpati from her grandson, purported to have been given to him in the year 2021 vide title deed executed on 20.11.2021, whereas the said property was purchased by the petitioners in the year 2009 and they are in occupation of the same and the dispute between the petitioners and son of Dhanpati, namely, Rajesh Kumar is already pending consideration before the Civil Court, however the authorities concerned exercising power under the 2007 Act, have totally ignored the said factual position and have directed that the property be vacated on the asking of Dhanpati, which is arbitrary and illegal.

4. Upon notice of motion, the respondents have appeared.

5. Mr. Anuj Malik, Advocate has appeared on behalf of respondent No. 1-Dhanpati and respondent No. 2-Aditya Dhanda has appeared in person today and submits that Rajesh Kumar i.e. the father of respondent No. 2 has never sold the property to the petitioners though concedes that there is a



litigation going on between the petitioners and Rajesh Kumar qua the same property, where certain interim orders have also been passed qua the possession but submits that the primary dispute in the present case is between Aditya Dhanda and Dhanpati i.e. his grandmother.

6. Mr. Anuj Malik, Advocate has appeared on behalf of respondent No. 1-Dhanpati and submits that Rajesh Kumar had no authority to sell the said land, hence, the said property was given by Dhanpati to her grandson, namely, Aditya Dhanda and as Aditya Dhanda is not maintaining her, she is entitled to take back the said property by evicting the persons, who are in occupation of the same.

7. Learned counsel for respondent No. 1-Dhanpati further submits that the electricity connection still remains in the name of Dhanpati, hence, the said property has to be treated as her exclusive property.

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

9. Once, certain disputes qua the ownership of the property has come before the authorities concerned hence, while exercising powers under the 2007 Act, the said facts have to be taken into account while deciding the issue between the parties.

10. In the present case, without even noticing the said facts qua the dispute in ownership of the property and litigation pending qua the same property only by recording a fact that Dhanpati is the owner and that property was given to her grandson, namely, Aditya Dhanda in 2021, the orders have been passed ignoring the claim of the petitioners who are claiming the ownership of the said property on the basis of the alleged sale deed executed



by the father of Aditya Dhanda and as far back as 2009. The orders passed by the authorities are set-aside and the case is remanded back for fresh adjudication by the authorities concerned to take into consideration the arguments, which are being raised by the petitioners qua the ownership of the property concerned.

11. The present petition is allowed in above terms.
12. Pending miscellaneous application, if any, also stands disposed of.

January 07, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No