



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

246

**LPA-2810-2024 (O&M)
Decided on : 15.09.2025**

HARDEV CHANDER CHAUDHARY AND ANOTHER

...Appellants

Versus

RAJNEESH CHAUDHARY AND OTHERS

. . . Respondents

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

PRESENT: Mr. D. S. Patwalia, Senior Advocate with
Mr. Anuj Raura, Advocate and
Ms. Rishu Bajaj, Advocate for the appellants.

Mr. Satyapal Jain, Senior Advocate with
Mr. Dheeraj Jain, Advocate ,
Ms. Avneet Kaur, Advocate
Mr. Sahil Garg, Advocate
Ms. Garima Kuthiala P., Advocate
for respondents No. 1 to 3.

Mr. Rohit Kaushik, Advocate and
Mr. Aman Bahri, Additional Standing Counsel
for respondents No. 4 & 5.

HARSIMRAN SINGH SETHI , J. (Oral)

1. The present letters patent appeal has been filed against the order passed by the learned Single Judge, dated 20.08.2024, by which, writ petition bearing CWP No. 19699 of 2024 filed by the private respondents herein, has been allowed and the orders passed by the authority concerned exercising jurisdiction under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 (herein after referred to '2007 Act') passed in favour of the senior



citizens i.e. appellants with regard to the eviction of the respondents herein from the house owned by the senior citizens, have been set-aside and the case has been remanded back to the authorities concerned for afresh adjudication.

2. Certain facts needs to be mentioned for the correct appreciation of the issue at hand.

2.1 It may be noticed that the conceded position is that the senior citizen-appellant No. 1, namely, Hardev Chander Chaudhary was allotted the premises being House No. 2355, Sector 38-C, Chandigarh (8 marla approx), on 31.12.1975. The said house remained in his ownership till the same was transferred by him in favour of his wife Kanta Chaudhary by way of transfer deed dated 04.08.2023. The said transfer deed by appellant No. 1-Hardev Chander Chaudhary dated 04.08.2023 in favour of Kanta Chaudhary is also on record and the same is conceded fact also.

2.2 The appellants-senior citizens avail the remedy under 2007 Act for eviction of the respondents from the premises in question, who were occupying the first floor of the premises in question. It may be noticed that apart from the respondents as well as the appellants/senior citizens namely, Hardev Chander Chaudhary and Kanta Chaudhary, the family of the younger deceased son of the senior citizens namely, Sandeep Chaudhary, is also living in the said premises.

The petition filed by the senior citizens for eviction from the first floor of the property in question of the respondents herein namely, Rajneesh Chaudhary (respondent no. 1), his wife, Himleena (respondent No. 2), his son Vidit Chaudhary (respondent No. 3) and daughter Dyuiti Chaudhary came to be decided by the competent authority i.e. learned

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Additional Deputy Commissioner-cum-Maintenance Tribunal (herein after referred to 'the Tribunal') vide order dated 18.09.2023 (Annexure P-3) and after recording the certain reasons, the respondents were directed to vacate the said premises in question and hand over the vacant possession of the same to the senior citizens.

2.3. Against the order dated 18.09.2023 passed by the Tribunal, the appeal dated 04.10.2023 was preferred before the District Magistrate-cum-Appellate Tribunal by the aggrieved party i.e. respondents herein, which also came to be dismissed on 02.08.2024 (Annexure P-9), which orders were impugned by the respondents by filing CWP No. 19699-2024. Though in the interregnum also, there were certain litigations, but the same are not mentioned as the same are not felt to be relevant for the purpose of the present order.

2.4. Learned Single Judge, vide order dated 20.08.2024 while deciding the said writ petition, set-aside the orders passed by the authorities under 2007 Act and remanded back the case to authorities for deciding the matter afresh order on the ground that the due evidence has not been taken on record so as to decide the issue as, even for the summary trials, the material evidence has to be brought on record to support the contentions as raised in the claim; and the said dispute is a property dispute and not the dispute where senior citizens are suffering due to the mistreatment of the respondents and that the respondents never neglected the appellants/senior citizens so as to allow the eviction of the respondents from the first floor of the property in question.

3. Learned Senior counsel for the appellants-Senior Citizens argues



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that as per the settled principle of law as being settled by 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* and even in the subsequent judgments, the eviction is inherent under 2007 Act and the same can be sought by the Senior Citizens, which fact has been ignored by the learned Single Judge while setting aside the orders passed by the authorities concerned dated 18.09.2023 and 02.08.2024.

4. Learned Senior counsel for the appellant further argues that the issues which were required to be proved before the authorities were that the property in question belongs to the appellants/senior citizen or not and whether they wanted to get the respondents to be evicted from the said property in order to live a peaceful dignified life keeping in view circumstances mentioned in the petition, which facts were also on record before the authorities concerned exercising jurisdiction under 2007 Act as well as before the learned Single Judge, hence, the remanding back of the case so as to lead the evidence to prove the claim of the appellants of eviction already stood complied with hence, the order dated 20.08.2024 passed by the learned Single Judge, is liable to be set-aside and the order passed by the authorities concerned exercising jurisdiction under 2007 Act dated 18.04.2023 (Annexure P-3) as well as 02.08.2024 (Annexure P-9) may kindly be upheld and the respondents/children be directed to vacate the first floor of the premises in question.

5. Learned Senior counsel for the appellants further submits that though, the property in question has already been vacated by the respondents and they are not living in the said premises but the same is under their lock

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and key and therefore, keeping in view the fact that the respondents are not residing in the aforesaid property, retaining the possession of the same, so as to debar the enjoyment of the same by the appellants/senior citizens, is totally arbitrary and illegal hence, in the facts and circumstances of the present case, the respondents be directed to handover the keys of the lock of the first floor of the property in question so that possession of the first floor of the property in question could be taken over by the senior citizens so as to use the said premises to live their life in a peaceful manner.

6. Learned Senior counsel for the respondents submits that though the property in question belongs to the senior citizens, but, in the present case, the issue is not of getting the property in question vacated from the respondents for the purpose of living dignified life by the senior citizens but for the property dispute which has come on record, as recorded by the learned Single judge. Learned Senior counsel for the respondents further submits that once, the appellants/senior citizens have not been able to prove that in what way they were being troubled by the respondents, hence, getting the eviction order from the authorities exercising jurisdiction under 2007 Act has rightly been set-aside by the learned Single judge while passing the order dated 20.08.2024.

7. Learned Senior counsel for the respondents further submits that the material evidence was needed to be brought on record which was not done which has rightly been appreciated by the learned Single Judge so as to remand the case back giving both the parties due opportunity to present their respective case, hence, the order passed by learned Single Judge dated 20.08.2024, may not be interfered with and hence, is liable to be upheld.

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8. Learned Senior counsel for the respondents further submits that though the respondents are not living on the first floor of the property in question, but the same is under their lock and key and the respondents are living with the family of respondent No. 2 as they have no other residence to live, hence, the respondents have all the right to remain in possession of the first floor of the property in question as being an ancestral property. Learned Senior counsel for the respondents further submits that the property dispute between the parties is at the hands of the grandson (son of the deceased son), who is exploiting the innocence of the appellants/senior citizen to get the property in question. .

9. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

10. Before deciding the issue on merit, it is unfortunate to know that the family is before this Court fighting with each other. Though, the circumstances may be known to them, but it is unfortunate that the senior citizens i.e. appellant No. 1, who is bed ridden and appellant No. 2 (wife of appellant No.1), who cannot move without the wheel chair, are before this Court seeking eviction from the first floor of the property in question of their surviving son and his family (respondents herein). It would have been much appreciated, if the family would have lived happily rather than contesting the claim before this Court. It is not a case that the family is without means rather the description of the properties owned by the appellant/senior citizens, shows that most of the property has been bifurcated between the family of deceased son of the senior citizens and their surviving son i.e. respondent No. 1.

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11. The borne of contention is with regard to the property which the father was allotted and later on transferred in the name of his wife i.e house No. 2355, Sector-38-C, Chandigarh, for which, the present litigation is being pursued.

12. The 2007 Act was enacted with an objective to ensure that the senior citizens are able to live a dignified life, keeping in view the wealth they have secured during their life time and not to be harassed by anyone, which include their children as well. The act seeks to protect the rights of Senior Citizens to life as they choose without there being any interference from the outside forces. In furtherance of this objective if the senior citizen has transferred, any property to their children or their relatives, who are covered under the definition as given under the 2007 act, and such transferee is not maintaining the senior citizens, the right has been given to the senior citizens to claim the said property back under section 23 of the 2007 Act.

13. Further, as per the settled principle of law as being settled by Hon'ble Supreme Court of India in *Urmila Dixit's case (supra)*, the Tribunal has inherent power of evicting the occupants on the asking of the senior citizen under Section 23 of the 2007 Act. The relevant paragraph of the said judgment are 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. 25. Another observation of the High Court that must be clarified, is Section 23 being a standalone provision of the Act. In our considered view, the relief available to senior citizens under Section 23 is intrinsically linked with the statement of objects and reasons of the Act, that elderly citizens of our country, in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee.”

14. In the present case, the facts which are required to be proved before this Court before seeking eviction are that i) that the property in question belongs to the senior citizens ii) and they have enough material to show to the Court that they are not able to live their life in dignified manner or they have threat to their life or property.

15. The aforesaid factors are to be seen by the Court so as to come to the conclusion as to whether the eviction of the respondents need to be ordered from the premises in question or not.

16. It may be noticed that the first ingredient whether the senior citizens is the owner of the premises in question, is not disputed. Though,

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initially the property in question belonged to the senior citizen/appellant No. 1- Hardev Chander Chaudhary, but the same was transferred by him in the favour of his wife namely, Kanta Chaudhary (senior citizen/appellant No. 2) on 04.08.2023 which transfer deed is also on record, which shows that the senior citizen owns the entire house i.e. house No. 2355, Sector 38-C, Chandigarh.

17. The second question which needs to be adjudicated is that whether in the facts and circumstances of the present case, the surviving son (respondent No. 1) could have been directed to vacate the aforementioned premises on the asking of the Senior citizens. It may be noticed that the circumstances that the relations between the senior citizens and the respondents are not normal and they are having disturbed relations is clear from the allegations alleged against each other. The parties were summoned by this Court. Though, the senior citizen namely Hardev Chander Chaudhary could not come because of his old age and is bed ridden but, Kanta Chaudhary wife of Hardev Chander Chaudhary appeared before this Court and made certain allegations against her own son i.e. respondent no. 1 and his family.

18. The son (respondent No. 1) also had grievances against his mother, namely Kanta Chaudhary that she is being influenced by the family of his deceased brother, namely, Sandeep Chaudhary and they are taking advantage of innocence of the senior citizens so as to grab the property in question which actually should have been bifurcated equally between both the sons i.e. the surviving son (respondent no. 1) and the family of the deceased son.

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19. Not only this there are other civil suits which have been filed by the senior citizens against the respondents that they were raising constructions upon the house owned by the senior citizens without their prior permission for which, the restraining order was sought and the son (respondent No. 1) has also filed civil suit against the senior citizens i.e. his mother, father as well as against the family of the deceased brother that the property which is being given by the mother to her grand son i.e, son of the deceased brother namely Sandeep Chaudhary is without jurisdiction.

20. It clearly shows that the relation between the appellants/ senior citizens and the surviving son Rajnish Chaudhary and his family are not cordial rather they have not even conversed with each other except when they were summoned by this Court.

21. The situation is such that son (respondent No. 1) has initiated litigations, even if in a bona fide manner against the senior citizens i.e. father and mother to claim the property but the question which arises is whether under such circumstances the senior citizen can live under the same roof with the respondent-son who is contesting their action in the competent Court of law. Once, the action of the senior citizens are being challenged by the son in the competent Court of law and allegations and counter allegations are being alleged, both the parties cannot live dignified life under the same roof be it senior citizens or even the respondent-son and his family.

22. Further, the senior citizens have an apprehension qua damage of their property as, the respondent-son had started construction in the premises in question without the permission of the senior citizens for which, the senior citizens had to approach the Court to get a restraint order. Once, the senior

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citizens fear the damage of their property at the hands of their children, 2007 Act give them the right to get such property evicted from the children so as to save their property and it is a conceded fact that the senior citizens had filed a civil suit against the respondents contending that their property is being damaged by undertaking an unauthorized construction in the house, hence, the said fact is good enough to authorize the senior citizen to seek eviction the respondents from the premises in question.

23. In order to get the relief, the senior citizens have brought all these facts on record and the same have been noticed by the learned Single judge as well. Once, these facts were already on record before the learned Single Judge, remanding the case back so as to consider the same facts again so as to pass a fresh order which is not justified and will only prolong the agony of the appellants/ senior citizens to get the premises vacated in order to live their dignified life.

24. Once, it is a summary proceedings which are to be undertaken and the fact that the senior citizens are the owner of the property in question and the apprehension of the damage to the property on the hands of the children was clear keeping in view the pleadings on record even qua the civil suit filed by the senior citizen but no other evidence was required to be brought on record to prove the ingredient to seek eviction hence, all the ingredients were before the learned Single Judge to decide the issue in hand rather than the remanding the case to bring on record the same facts for afresh adjudication.

25. Further, in some what similar circumstances, the issue came up before this Court wherein also the respondent-son, though was not residing



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on the first floor of the disputed property but was keeping the said property under his lock and key which came to be decided in **CWP No. 497 of 2022 titled as 'Tarsem Lal Arora versus The Additional District Magistrate and another', decided on 18.01.2025** where in one of us (Harsimran Singh Sethi, J.) has held that once, the son is not living in the property in question and shifted to another premises, but the property in question was being kept in his lock and key is incorrect and the same needs to be handed over to the senior citizens for the purpose of living their life in a dignified manner. .

26. The said judgment passed in **CWP No. 497 of 2022- Tarsem Lal Arora's case (supra)** has already been upheld by the Hon'ble Division Bench while passing the order in LPA No. 601 of 2025 decided on 24.04.2025 titled as **'Sh.Arun Kumar versus Tarsem Lal and another', decided on 24.04.2025.**

27.. Learned Senior counsel appearing on behalf of the respondents has not been able to dispute the aforesaid settled principle of law.

28. Keeping in view the totality of the circumstances where all the ingredients are required to get the premises in question vacated i.e. the ownership of the property in question and to live dignified life in the facts and circumstances have not only been proved before the authorities concerned but even before this Court, hence, the present petition is allowed and the order dated 20.08.2024 passed by the learned Single Judge ***remanding the case back again to the authorities concerned cannot be sustained in the eyes of law and the same is accordingly set-aside.***

29. At this stage, Learned Senior counsel appearing on behalf of the respondents submits that there is a dispute with regard to the ownership of



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the senior citizens qua the said premises in question as well for the reasons that the said premises was purchased from the proceeds of the sold ancestral property which will give the right to the son (respondent No. 1) to secure the said premises in his favour rather than being ousted from the said premises.

30. It may be noticed that for the said purpose, the son (respondent No. 1), namely Rajnish Chaudhary has already filed a civil suit as being informed to this Court, in case, he gets the decree in his favour that the senior citizens are not the sole owner of the property in question and the respondent No. 1 Rajnish Chaudhary also has right to claim the ownership of the premises in question then this order will not come in the way of respondent No.1- Rajnish Chaudhary to claim the ownership of house in question.

31. Further, as of now, as per the conceded fact and the record of the Chandigarh Administration, the property in question which initially was allotted to appellant No. 1-Hardev Chander Chaudhary on 31.12.1975 has now been transferred in the favour of his wife Kanta Chaudahry vide transfer deed dated 04.08.2023 and they are the owner and have exclusive right to live in the said house as per their own will.

32. Hence, keeping in view the said settled principle of law as settled in **CWP No. 497 of 2022- Tarsem Lal Arora's case (supra)**, the respondents are directed to hand over the key of the lock of the first floor of the property in question to the senior citizens within the period of **two months** from the date of the receipt of the copy of this order. However, the said handing over of the possession will be subject to any litigation which is

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already in operation between the parties concerned qua the present house in question.

33. The present appeal is allowed in above terms.

34. It may be noticed as the family is litigating with each other since long which proceedings needs to be brought to an end as soon as possible, hence, the trial Court where the litigations are pending between the parties is requested that all the efforts be made to finalise the said proceedings as expeditiously as possible keeping in view the fact that the senior citizen/appellant No. 1 is already 95 years old and his son (respondent No. 1) is claiming that he has no other residence to live.

35. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

15.09.2025

Riya

Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No