

**CWP-36748-2019****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(203)****CWP-36748-2019****Date of Decision : February 06, 2025****Muni Lal Sharma****.. Petitioner****Versus****District Magistrate, Gurdaspur and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. B.S. Guliani, Advocate, for the petitioner.

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

Mr. Gagandeep Singh Sirphikhi, Advocate, for respondents No. 2 and 3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. This writ petition has been filed by the petitioner to challenge the order dated 18.10.2019 (Annexure P-1) passed by the District Magistrate, Gurdaspur by which, the application filed by the senior citizen for the eviction of respondents No. 2 and 3 from the premises which is owned by the senior citizen, has been rejected.

2. Learned counsel for the petitioner submits that the petitioner, who is a senior citizen, is the owner of the House No.B-IV/423 Gali Tellian Wali, Mohalla Khiloniyan Wala, Achli Gate Tehsil Batala, District Gurdaspur.

3. Learned counsel for the petitioner further submits that respondents No. 2 and 3 who are the son and daughter in-law respectively are not vacating the property despite the fact that they have already

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purchased their own property through which they are deriving rent, the order passed by the District Magistrate Gurdaspur recording a finding that since the house is divided in two parts and the senior citizen petitioner and the private respondents are living in the separate houses and paying the electricity bills and maintenance charges and this seems more like a family dispute, the eviction order cannot be passed under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred as '2007 Act'), which is not correct appreciation of '2007 Act' and therefore, the said order is liable to be set aside.

4. It is the argument of the learned counsel appearing on behalf of the respondents that though, the house in question is in the ownership of the senior citizen but as respondents were living in the said house since long, they have acquired a right and are thus entitled to continue to reside in the portion which is in their possession and the order passed by the District Magistrate, Gurdaspur, impugned in the present petition, is perfectly valid and legal and the writ petition is liable to be dismissed.

5. Learned counsel for the respondents has not been able to rebut that during the pendency of the proceedings filed under 2007 Act, respondents No. 2 and 3 has already purchased a house, which has been leased out and the respondents rather than occupying in the house they have purchased and still in the possession of the house in question.

6. Learned counsel for the petitioner submits that the petitioner's life is also in danger as respondent No.3 has filed a case under the Domestic Violence Act against the petitioner and his life and liberty is also at stake as per the facts and circumstances of the present case.

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

8. Once, the property is being owned by the senior citizen and he wants to live a peaceful and dignified life at this stage of his life, unless and until there is a valid reason, the children need to vacate the premises in case there is a dispute between the senior citizen and children.

9. In the present case, allegation of domestic violence has been raised against the senior citizen by the wife of the son, who is also respondent and the senior citizen is being faced with the said proceedings which amounts to damage of reputation and harassment especially when the said allegations have not been proved.

10. Further, in the present case, as the respondent-children have already purchased their own accommodation, they should have shifted to the same rather than giving the said premises to a tenant so as to secure rent.

11. Learned counsel for the respondents has not been able to dispute the said fact certain premises is being owned by respondents No. 2 and 3 where they can shift.

12. Keeping in view the totality of the circumstances where , respondents No.2 and 3 have adequate accommodation to live in, the petitioner, who is a senior citizen, has to be given the right to decide to live peacefully without there being any allegation being alleged upon him.

13. The authorities exercising jurisdiction under 2007 Act have failed to appreciate that the senior citizen cannot be made to live with the persons who are damaging his reputation and are making false allegations to

harass him. The children cannot be allowed to raise allegation against

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senior citizen while staying in the accommodation belonging to the senior citizen. This harassment has to be stopped for which 2007 Act was enacted.

14. The impugned order dated 18.10.2019 (Annexure P-1) passed by the District Magistrate, Gurdaspur is perverse keeping in view the facts and circumstances of the present case and cannot be sustained in the eyes of law. The said order is set aside with the further direction that respondents No.2 and 3 shall vacate the premises in question by 30.04.2025. In case, the said order is not complied with by the respondents, the senior citizen will take help from the police authorities to get this order executed and the police authorities will help in all manner required.

15. The present writ petition is allowed in above terms.

February 06, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No