

DINESH @ DINESH KUMAR v. DISTRICT MAGISTRATE, YAMUNA NAGAR

PUNJAB & HARYANA HIGH COURT

Before: Justice Tejinder Singh Dhindsa.

DINESH @ DINESH KUMAR and another - Petitioners,
versus

DISTRICT MAGISTRATE, YAMUNA NAGAR and others - Respondents.

CWP No.5620 of 2019

07.03.2019

Maintenance and Welfare of the Parents and Senior Citizen Act, 2007, Section 22(2) - Possession – The petitioner is a licensee living in the premises on the basis of concession given by his grand father to live in the property owned by him - As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. Gurpreet Singh v. State of Punjab, (2016 -3)183 PLR 233, followed.

Mr. Nagar Singh, for the petitioners.

Tejinder Singh Dhindsa, J.(Oral) - Challenge in the instant petition is to the order dated 09.01.2019 (Annexure P-4) passed by the District Magistrate, Yamuna Nagar and in terms of which the petitioners have been directed to vacate the premises in question i.e.House No.248, Vijay Col-ony, Yamuna Nagar, Tehsil Jagadhri, District Ya-muna Nagar.

2. Petitioners herein are the grandson and grand daughter-in-law of respondent No.4-Naranjan Singh.

3. An application was moved by respondent No.4 under Section 22/23 of Maintenance and Welfare of Paretns and Senior Citizen Act, 2007 (hereinafter to be referred to as 'the Act') seeking eviction of his son Surinder Kumar as also grand-son Dinesh and grand daughter-in-law Sonia @ Sonia Devi wife of Dinesh, from the premises in question. Vide impugned order dated 09.01.2019 (Annexure P-4) the application has been allowed and directions have been issued to vacate the premises owned by respondent No.4 within a pe-riod of 30 days from the date of passing of the 1 of 5 order.

4. Counsel would submit that a complaint had been lodged by petitioner No.2 against her father-in-law Surinder as also respondent No.4- Naranjan Singh, before the Superintendent of Police, Yamuna Nagar on 14.05.2018 and the application that had been moved by respondent No.4 under the provisions of the 2007 Act was a mere counter-blast to the complaint that had been filed. Further argued that the District Magistrate, Yamuna Nagar has passed the impugned order of eviction by conducting exparte proceedings and which procedure is in violation of the rules of natural justice. Counsel further argued that respondent No.4 is a retired personnel from the Army and is drawing a handsome pension and even owns 18 acres of agricultural land and under such circumstances the application moved by him seeking eviction of the petitioners should not have been allowed. The impugned order would cause

great hardships to the petitioners is yet another submission raised by counsel.

5. Having heard counsel for the petitioners at length and having perused the pleadings on re-cord, I am of the considered view that the instant petition is bereft of merit and deserves to be dis-missed.

6. Counsel does not dispute that pursuant to the application having been moved by respondent No.4, seeking eviction of the petitioners, a report was sought from the Sub Divisional Officer (Civil), Jagadhri. A report was duly submitted reflecting respondent No.4-Naranjan Singh to be the owner of the land measuring 0-7 marlas situated in Village Chandpur. Construction to the extent of three rooms, two bathrooms and one kitchen was stated to have been effected on the plot in question. Furthermore the Senior Citizen/respondent No.4 is stated to be 70 years old and had 2 of 5 categorically taken a stand that the respondents (petitioners herein) were habitual of using filthy language and even resorted to giving him beatings with a motive to grab his property. The senior citizen further alleged that his grandson and grand daughter-in-law had refused to maintain him in any manner.

7. Even though, counsel made an attempt to impress upon this Court that the petitioners were always ready and willing to look after respondent No.4 and would continue to do so in the future as well but on a pointed query being put as to how much amount were they willing to deposit as also furnish to respondent No.4 on a regular basis, the response has been evasive. To the contrary it is suggested that respondent No.4 is a man of means and as such is capable of looking after himself.

8. It is by now well-settled that if the property is owned by senior Citizen/parents, who are being harassed mentally/physically, the said senior citi-zen/parent may file an application before the Dis-trict Magistrate under the provisions of the Act for purpose of seeking eviction. This is precisely what has been done in the present case.

9. A Division Bench of this Court in **Gurpreet Singh v. State of Punjab & others, (2016 -3)183 PLR 233**, had held as under:

"12. The petitioner is a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but with-out creating any interest in the property. A licence stands terminated the moment the licensor con-veys a notice of termination of a licence. There is no vested right of any kind in 3 of 5 the licensee to remain in possession of the property licensed. Ad-mittedly, respondent No.4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respon-dent No.4 is required to be protected as mandated by Section 22 of the Act read with Rule 23 of the Rules and para 1 of the Action Plan. There cannot be any effective protection of property of the senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or to restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property

of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of which the son is a licensee, such summary procedure will ensure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified."

10. The dictum laid down in Gurpreet Singh's case (supra) would virtually negate the challenge raised by the petitioners to the impugned order dated 09.01.2019 (Annexure P-4).

11. Counsel during the course of hearing has conceded that the 4 of 5 petitioners herein had been duly served and inspite thereof had not filed written statement and did not put in appearance before the District Magistrate, Yamuna Nagar. Under such circumstances no exception can be made to the exparte proceedings leading to the passing of the impugned order.

12. In an overview of the matter, the impugned order of eviction, does not call for any interference.

13. Petition dismissed.