



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

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**CWP-6515-2025 (O&M)
Decided on :19.03.2025**

RAGHURAJ SINGH AND ANR

. .Petitioner

Versus

DISTRICT MAGISTRATE ROHTAK AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Kulvir Narwal, Advocate for the petitioners.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 07.02.2025 (Annexure P-4) passed by District Magistrate-cum-Appellate Authority, Rohtak by which, the Appellate Authority while ignoring the provisions of the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 (hereinafter 2007 Act) has passed an order of eviction by setting aside the order passed by the Tribunal dated 09.11.2023 (Annexure P-3).
2. Learned counsel or the petitioners argues that as per the facts which had come on record before the authorities concerned, the house in question from where the order of eviction had been sought and eventually passed by the appellate authority passed belongs to respondent No. 3, who is sister-in-law (Bhabhi) of the petitioners herein and she cannot claim the eviction of her brother-in-law as the same is not envisaged under the 2007 Act and therefore, it is the prayer of the petitioner that the order of eviction passed by the appellate authority while passing the impugned order dated 07.02.2025 (Annexure P-4) is liable to be set-aside.
3. Upon notice of motion, respondent No. 4 had appeared in

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person. Reply filed by the respondents has been taken on record. Respondent No. 4 has argued that certain facts which have been withheld from this Court are that respondent No. 4 is also the owner of the property in question. Respondent No. 4 submits that though, initially the house in question qua which the impugned eviction order has been passed, was in the ownership of respondent No. 3 (wife of respondent No. 4), but vide a transfer deed dated 16.06.2014, 50% of the total share of the house in question had been transferred in the name of respondent No. 4 and as such he is also the owner of the said house to the extent of 50%. Respondent No. 4 further submits that keeping in view the said fact, the petitioner has rightly been directed to be evicted from the property in question by the appellate authority by passing the impugned order dated 07.02.2025 (Annexure P-4).

4. Respondent No. 4 further submits that there is one another ancestral house which belongs to them which house is located in the village, and is in the occupation of the petitioners as they have put their own lock, on the said house and therefore, they have the liberty to avail the said premises. Respondent No. 4 also submits that he is suffering from various ailments and is bound to get treatment from PGI, Rohtak, therefore, he needs the premises in question which is situated in Rohtak for undertaking his medical treatment as he is living in Meerut as of now because of non-availability of the accommodation.

5. I have heard learned counsel for petitioners as well as respondent No. 4 who has appeared in person and have gone through the case file with their able assistance.

6. The factum that keeping in view the transfer deed dated 16.06.2014, respondent No. 4 is also the owner of the property in question to the extent of half of the total share, has not been rebutted. The said factum



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is very important to decide the *lis* between the parties so as to decide whether, the proceedings under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 could have been initiated by respondents No. 3 and 4 to get the premises in question evicted from the petitioner.

7. Once, this becomes an undisputed fact that respondent No. 4 is also the owner of the property in question and the petitioner is his brother and respondent No. 4 is covered by the provisions of the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 so as to give a right to respondent No. 4 to initiate a claim qua the eviction of the petitioner from the property in question, as respondent No. 4 being Senior Citizen needs the said property in question for getting his medical treatment done from PGI, Rohtak. Hence, the issue that whether respondents No. 3 & 4 could initiate claim under 2007 Act is to be decided in favour of respondents No. 3 & 4.

8. Keeping in view the totality of facts and circumstances of the present case and the argument raised by the petitioner that the property in question belongs to respondent No. 3 and that respondent No. 3 being sister-in-law of the petitioner cannot raise claim under 2007 Act has already been rebutted by respondent No.4 as the property in question also belongs to respondent No. 4, hence, argument of the petitioners that respondents No. 3 & 4 could not avail the remedy under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 becomes redundant and is accordingly rejected.

9. At this Stage, learned counsel for the petitioner argues that once it is clear that the respondent No. 4 only holds 50 per cent share of the property in question, he cannot claim the eviction of the petitioners from the whole of the property. Qua this argument, it may be noticed that no partition of the property concerned has been effected as of now. There is no demarcation of the property in question between respondents No. 3 & 4 as well.

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Once, respondent No. 4 is 50% shareholder of the property in question and there is no demarcation of the said property, then the argument of the petitioners that the petitioners cannot be directed to be evicted from whole of the property which is a composite house, cannot be accepted.

10. Further, it is not a case that the petitioner does not have any other accommodation to live in. Even in the impugned order itself, it has already come on record that a compromise was effected between the parties to the effect that the petitioner will leave the property in question and occupy the ancestral property which is situated in the village and the same is under the possession of the petitioners as of now.

11. Learned counsel for the petitioners submits that as the children of the petitioners are studying in Rohtak, he cannot move into the ancestral property to live in. Qua this argument, it may be noticed that the petitioners cannot claim to occupy the residence in preference to his senior citizen brother, who actually owned the property in question and also needs the said property in question in order to get his medical treatment from the PGI, Rohtak. It has already come on record that the senior citizen i.e. respondent No. 4 is handicapped and partially blind and has suffered injuries in operation Blue Star for which he needs the constant medication and is a regular patient of PGI, Rohtak, where the said property in question is situated.

12. Keeping in view the totality of the facts and circumstances of the present case, especially that there is also one another ancestral property which can be used by the petitioners to live in, no ground is made out for any interference by this Court, qua the impugned order, hence, the present petition is dismissed and the petitioners are directed to vacate the premises in question by 31.05.2025 and handover the possession of the said premises

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to the private respondents. Failing which, the private respondents will be within their jurisdiction to avail appropriate remedy for vacation of their house.

13. At this stage, learned counsel for the petitioner submits that the reply on behalf of the respondents has been given to him today in the Court itself. Learned counsel for the petitioner submits that though the arguments and facts mentioned in the reply are taken on the face value but if it is found that any fact mentioned in the reply is incorrect especially qua the transfer of the property in question in the name of respondent No. 4, liberty be given to file a review petition. It goes without saying that in case, any fact recorded by this Court in the order, is found to be incorrect, the petitioner shall feel free to file a review petition for reconsideration of the issue in hand.

14. Pending civil miscellaneous application, if any, stands disposed of

(HARSIMRAN SINGH SETHI)
JUDGE

19.03.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No