



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CWP-5736-2021 (O&M)
Decided on :28.07.2025

PUSHPA KAPOOR

. .Petitioner

Versus

ADDITIONAL DISTRICT MAGISTRATE AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Narender Pal Bhardwaj, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Shantanu Bansal, Advocate for respondents No. 2 & 3.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the impugned award dated 10.02.2021 (Annexure P-5) passed by the authority envisaged under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 (herein after referred to 2007 Act) by which, the direction has been given to the petitioner to vacate the premises in question which belongs to respondents No. 2 & 3-senior citizens.

2. Learned counsel for the petitioner argues that though the rights to get the premises vacated is inherent under 2007 Act, but the competent authority is still required to evaluate that whether the facts and circumstances of a particular case demands the eviction or not.

3. Learned counsel for the petitioner further submits that as per the order passed by the **Hon'ble Supreme Court of India S.L. P. (C) No. 26651 of 2023** titled as '**Samtola Devi versus State of Uttar Pradesh and others**', **decided on 27.03.2025**, the competent authority while giving direction of eviction from the premises under 2007 Act, have to first evaluate the facts and circumstances of each case.



4. Learned counsel for the petitioner further submits that the petitioner in the present case is a 48 years old separated single woman, who has to maintain her son and she has been directed to vacate the premises in question by the Tribunal vide order impugned.

5. Learned counsel for the petitioner further submits that the petitioner is suffering from various ailments and is bed ridden and presently she is undergoing dialysis after every 15 days therefore, directing her to move out of the premises in question especially when she does not have any other place to live in, will not be appropriate and these facts have been ignored by the authority concerned while passing the order of eviction against the petitioner.

6. Learned counsel for the respondents No. 2 & 3 -senior citizens submits that respondent No. 2 & 3-senior citizens are also bed ridden and want their premises to be vacated from their daughter-petitioner on the ground that their daughter abuses them.

7. Learned counsel for respondents No. 2 & 3 further submits that the said premises which is sought to be vacated is locked and the petitioner is not residing in the said premises.

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

9. As per the settled principle of law, the passing of an eviction order by the competent authority envisaged under 2007 Act is inherent, but the same has to be passed by appreciating all the facts required. If a senior citizen is asking for vacation of the premises and other party who is sought to be vacated has a valid justification to stay in the said premises same has to be appreciated while passing the order.

10. As per the judgment passed by the Hon'ble Supreme Court of



India in *Samtola Devi's case (supra)*, the discretion to pass an order of eviction lies with the authorities envisaged under 2007 Act by appreciating the facts and circumstances of each case.

11. In the present case, the order of eviction has been passed against the petitioner only on the ground that the premises in question belongs to the respondents No. 2 & 3- senior citizens and the petitioner is in possession of the premises in question. Solely on that basis the petitioner has been directed to vacate the premises in question.

12. Further, the petitioner has pleaded before this Court that she is not medically fit and is bed ridden. She is suffering from several ailments such as *Rheumatoid Arthritis* and *she is also undergoing the procedure of dialysis due to her kidney failure* for which, she has to be hospitalized after every 15 days. That being so, once, it is a conceded fact that the petitioner is not medically fit and nothing has come on record to show that she has any other accommodation to live in after her eviction from the premises in question. Petitioner cannot be directed to live on streets and that too in such a conditions where she is not medically fit and is bend ridden.

13. As of now, the petitioner is claiming that she is bed ridden and even the learned counsel for respondents No. 2 & 3 -senior citizens submits that respondents No. 2 & 3-senior citizens are also bed ridden. As both the parties are bed ridden, directing one party i.e. petitioner who is a single, separated parent and bed ridden lady, to vacate the premises in question will not be in the interest of justice, as, the humans life has to be valued so much so that he/she is able to live his/her life in a dignified manner under all circumstances.

14. In the present case, the dispute is between the senior citizens- parents and the petitioner-daughter which dispute can even be otherwise



resolved in case they both tried to do so. Hence, in the facts and circumstances of the present case, as the petitioner is physically unfit, bed ridden and is undergoing the procedure of dialysis after every 15 days and has no source of income to fulfil her basic needs, coupled with the fact that she has no other accommodation to live, in case she is evicted, and directed her to be evicted from the premises in question will amount to putting a singly lady on the street alongwith her son, which will not be in the interest any one including the senior citizens, hence, the order passed directing her eviction from the premises cannot be upheld, an is thus, set-aside.

15. Keeping in view the above, *the impugned order dated 10.02.2021 (Annexure P-5) is hereby set-aside and the petitioner is allowed to continue her stay in the premises with the caution that she would be refrain from interacting with her parents in the manner she has been alleged to have been interacting.*

16. The present petition is disposed of in above terms.

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

(HARSIMRAN SINGH SETHI)
JUDGE

28.07.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No