



‘Property rights of seniors based in US are protected under Indian law’

htestates

LEGAL REMEDIES

The provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, provide an inexpensive and speedy remedy for the maintenance and welfare of the parents and the elderly.

It also contains provisions whereby the transfer of the property by any senior citizen may be declared void if the transfer was subject to the condition that the transferee shall provide basic amenities and basic physical needs to such senior citizen and such transferee refuses or fails to do so.

Recently, a matter came up for consideration of the High Court of Punjab and Haryana in the matter of Hamina Kang Vs. District Magistrate (U.T.) and others, where the HC dealt with the question that whether a senior citizen who is now a U.S. citizen entitled to seek remedy under the provisions of the Act or not?

The brief facts of the present case were that the old and aged parents where the father was 82 years old and 79 years old and the mother was 80 years old and 75 years old were U.S. citizens and had a house in Chandigarh.

Their son, daughter-in-law and three granddaughters moved to India after their son who worked in a multinational company got posted in India. The son and his family started residing in the rear portion of Chandigarh house that was owned by the

ACT CONTAINS PROVISIONS WHEREBY TRANSFER OF PROPERTY BY SENIOR CITIZEN MAY BE DECLARED VOID IF TRANSFER WAS SUBJECT TO THE CONDITION THAT THE TRANSFEREE SHALL PROVIDE BASIC AMENITIES TO SUCH SENIOR CITIZEN

father.

When the parents visited India, their daughter-in-law alleged that they were harassing and humiliating her and filed complaints against them.

Feeling aggrieved and harassed, the parents filed an application for the protection of their life and property. It was stated in the application that the parents were earlier working in USA and decided to shift to their Chandigarh house as they were not keeping too well and domestic help was very expensive in USA. They also stated that their daughter-in-law abused them in presence of the police and also locked some of the rooms of the ground floor blocking their access.

Although, the daughter-in-law denied all allegations made against her but the District Magistrate, Chandigarh directed the daughter-in-law to vacate the Chandigarh house within ten days of the order.

It was against the said order of the District Magistrate, Chandigarh that the daughter-in-law filed a writ petition at the HC. The primary argument raised by the counsel on behalf of the daughter-in-law was that jurisdiction under the Act can be invoked only by the “senior citizens” and the parents were US Citizens so they are not citizens of India within the meaning prescribed

under the Act.

Therefore, the application made by them under the Act was not maintainable.

In this regard, the HC referred to the relevant provisions of the Act and held that although a ‘senior citizen’ under the Act is a person who is a citizen of India and is of the age of sixty years or more but a ‘parent’ under the same Act is a father or mother, whatever his or her nationality would be. Thus, a person who is a parent would be entitled to the benefits of the Act which are conferred on parents, irrespective of his or her age or nationality.

The HC further observed that as the rules framed under the Act have been passed in relation to both parents and senior citizens, therefore, these rules may be invoked by a parent even though he may not be a senior citizen as defined in the Act. Thus, it was held by the HC that an application for protection and eviction from their property by parents who were US citizens is maintainable.

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