

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6634 of 2013
Date of Decision: September 10, 2015

Sanjay Aggarwal

...Petitioner

Versus

Mahabir Parsad Aggarwal

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Anurag Jain, Advocate,
for the petitioner.

Mr.Nitin Jain, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned orders dated 6.5.2013 (Annexure P-2) and 1.8.2013 (Annexure P-4), whereby the petitioner has been proceeded *ex-parte* and the receiver has been appointed.

Mr.Anurag Jain, learned counsel appearing on behalf of the petitioner submits that against the impugned orders, statutory appeal lies under Section 16(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short “2007 Act”) and since the petitioner was not aware of the aforementioned provisions, he chose to file revision under Article 227 of the Constitution of India in this Court. He further submits

that this Court, while issuing notice of motion, also protected the petitioner by way of interim order passed on 31.10.2013. He further submits that the petitioner would withdraw the present revision and file an appeal before the appellate authority, i.e., Deputy Commissioner concerned against both the orders if the objection vis-a-vis limitation may not come in his way.

Mr.Nitin Jain, learned counsel appearing on behalf of the respondent submits that the revision petition is not maintainable in view of the aforementioned provisions and, therefore, the prayer with regard to the condonation of delay should not be accepted as a valuable right has been accrued in favour of the respondent.

I have heard the learned counsel for the parties and appraised the paper book.

The provisions of Section 16(1) of the Act leave no manner of doubt that any order passed by the competent authority, the aggrieved party is entitled, to challenge the same by way of an appeal before the appellate court, i.e., the Deputy Commissioner of the concerned District/area or any other officer as notified. The limitation to file the appeal is sixty days. The impugned orders, though have been passed on 6.5.2013 and 1.8.2013, in my view, are appealable. The petitioner has immediately, in the month of October, 2013, assailed the aforementioned orders and this Court, while issuing notice of motion, passed the following order:-

“The parties are father and son respectively. Respondent filed an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Tribunal. In those proceedings, petitioner, herein, was ordered to be proceeded against exparte vide order dated 06.05.2013 (Annexure P2).

Learned counsel for the petitioner contends that this order was not signed by the members of the Tribunal. Even, this order was also not passed by the Tribunal, while, on the contrary, it was passed by the Sub Divisional Magistrate, Hisar. He further contends that the exparte order (Annexure P4) was wrongly passed against the petitioner without effecting any service of the application.

These contentions require consideration.

Issue notice for 21.11.2013.

Operation of the impugned order (Annexure P4) shall remain stayed till further orders.”

The petitioner is granted liberty to file the appeal before the competent authority within a period of two weeks from the date of receipt of certified copy of this order. In case any appeal is filed, the respondent would not raise any objection vis-a-vis the limitation and the competent authority shall treat the appeal as if as it has been filed within the period of limitation by taking the aid of Section 14 of the Indian Limitation Act, 1963. The interim order dated 31.10.2013 passed by this Court shall continue till the preliminary hearing of the appeal. The petitioner shall be at liberty to press for interim stay. In essence, the interim stay granted by this Court will be only for the period till the parties are heard on interim stay.

With the aforementioned observations, the revision petition stands disposed of.

September 10, 2015
ramesh

(AMIT RAWAL)
JUDGE