

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

**CWP-4110-2016 (O & M)
Date of decision: 04.10.2017**

Vishwa Mitter Bhandari

....Petitioner(s)

V/s

State of Punjab and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Karan Nehra, Advocate, for Mr. Yogesh Chaudhary,
Advocate, for the petitioner.

Mr. Harsimran Singh Sethi, Addl.A.G., Punjab.

Mr. Chandra Kumar Jha, Advocate, for respondent No.6.

Rajan Gupta, J. (Oral)

Petitioner has posed a challenge to the order dated 22.04.2013, Annexure P-19, passed by the appellate authority whereby his application for maintenance under the Act, has been dismissed. It has been urged before the court that the order suffers from grave error. Reference has been made therein to civil litigation pending between the parties. Stand of the petitioner is that no case is pending before the civil court at present. Petitioner is living in self-acquired property and is seeking eviction of the respondent from the same. This issue has not been dealt with by the appellate authority.

Learned counsel appearing for respondent No.6, however, refutes the plea. According to him, the property is ancestral in nature. Thus, eviction cannot be sought by the petitioner.

On due consideration of the matter, this court feels that the matter needs to be remitted to the same authority for a decision afresh. There is no finding on the question whether the property is self-acquired property of the petitioner or ancestral in nature. Even nature of civil proceedings stated to be pending between the parties has also not been clarified. Thus, impugned order dated 22.04.2013 is hereby set aside. Matter is remitted to the same authority for a decision afresh after affording an opportunity of hearing to the parties.

Allowed in these terms.

October 04, 2017
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No