

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Writ Petition No.3004 of 2017  
Date of Decision: February 17, 2017

Sonal Sharma

...Petitioner

Versus

Appellate Tribunal-cum-District Magistrate, Ambala & others

...Respondents

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

Present: Mr.Jagram Singh Cooner, Advocate,  
for the petitioner.

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**AMIT RAWAL, J. (Oral)**

Contention of Mr.Jagam Singh Cooner, learned counsel for the petitioner is that against the order dated 3.10.2016 (Annexure P-2) rendered by the Sub-Divisional Magistrate, Maintenance Tribunal, Ambala entertaining the application under the provisions of Maintenance & Welfare of Parents & Senior Citizens Act, 2007 (for short “2007 Act”), the petitioner, being daughter-in-law, has preferred an appeal as per the provisions of Section 16 of 2007 Act, but the same is held to be not maintainable on the premise that the same apply to the senior citizens, whereas the petitioner, being daughter-in-law, had been rendered remedy-less. In support of his contention, he has relied upon the Division Bench of this Court in **Paramjit Kumar Saroya Versus The Union of India and another**, 2016 (3) R.C.R. (Civil) 146, paras 33 and 34, which read thus:-

*“33. Now coming to the conspectus of the discussion aforesaid, we have no doubt in our mind that we would be*

*faced with the serious consequences of quashing such a provision which deprives the right of one party to the appeal remedy, while conferring it on the other especially in the context of the other provisions of the same Section as well as of the said Act. We have to avoid this. The only way to avoid it is to press into service both the principles of purposive interpretation and casus omissus. The Parliamentary discussions on the other provisions of the said Act do not convey any intent by which there is any intent of the Parliament to create such a differentiation. There is no point in repeating what we have said, but suffice to say that if nothing else, at least to give a meaning to the first proviso of Section 16(1) of the said Act, the only interpretation can be that the right of appeal is conferred on both the sides. It is a case of an accidental omission and not of conscious exclusion. Thus, in order to give a complete effective meaning to the statutory provision, we have to read the words into it, the course of action even suggested in **N. Kannadasan's** case (supra) in para 55. How can otherwise the proviso to sub section (1) be reconciled with sub section itself. In fact, there would be no need of them proviso which would be made otiose and redundant. It is salutary role of construction of the statute that no provision should be made superfluous. There is no negative provision in the Act denying the right of appeal to the other parties. The other provisions of the Act and various sub sections discussed aforesaid would show that on the contrary an appeal from both sides is envisaged. Only exception to this course of action is the initial words of sub section (1) of Section 16 of the said Act which need to be supplanted to give a meaning to the intent of the Act, other provisions of the said Act as also other sub sections*

*of the same Section of the said Act. In fact, in **Board of Muslim Wakfs Rajasthan's** case (supra), even while cautioning supply of casus omissus, it has been stressed in para 29 that the construction which tends to make any part of the statute meaningless or ineffective must always be avoided and the construction which advances the remedy intended by the statute should be accepted. This is the only way we can have a consistent enactment in the form of whole statute.*

*34. We are thus of the view that Section 16(1) of the said Act is valid, but must be read to provide for the right of appeal to any of the affected parties.”*

Therefore, the order Annexure P-1 is not sustainable.

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

I am in agreement with the contention of Mr.Cooner that the petitioner has been deprived of right to be heard on merits, particularly on the ground of maintainability. As per the ratio decidendi culled out in **Paramjit Kumar Saroya (supra)**, the appeal is maintainable. Thus, I deem it appropriate to set-aside the impugned order and remand the mater back without issuing notice to the private respondents being senior citizens. It will unnecessarily entail into harassment and inconvenience, much less it will defray the costs of litigation. Resultantly, the impugned order Annexure P-1 is set-aside. The petitioner is directed to appear before the District Magistrate, Ambala on 3.3.2017, who shall call upon the respondents in Case No.43/Senior Citizen and decide the appeal on merits preferably within a period of three months from the receipt of certified copy of this order keeping in view of the aforementioned observations.

Liberty is also granted to the petitioner to seek interim relief before the District Magistrate concerned.

Writ petition stands disposed of.

**February 17, 2017**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable:**

**Yes/No**