

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

(124)

CWP-6909-2017

Decided on: April 03, 2017.

Dhian Singh

.... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. G.S. Brar, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

Petitioner has been directed to pay maintenance amount of Rs.2000/- per month to respondent No.3 being one of her three sons.

Learned counsel for the petitioner has submitted that since the respondent mother is enjoying equal share in the inherited property and is able to maintain herself, as such, she cannot be granted any maintenance.

Learned counsel for the petitioner has vehemently contended that the Tribunal as well as the Appellate Court has wrongly awarded maintenance of Rs.2000/- per month.

I have heard learned counsel for the petitioner and I am of the opinion that Maintenance and Welfare of Parents and Senior Citizen Act, 2007 was enacted to provide for more effective provisions for maintenance and welfare of parents and senior citizens, granted and recognized under the Constitution and for the matters connected therewith and incidental thereto. The maintenance has been defined in Section 2 (b) of the said Act and would include provisions for food, clothing, residence and medical attendance and treatment. The mere fact that respondent No.3 is capable of

drawing income from property, is not sufficient enough to deny the maintenance under Section 4 of the said Act as the said Section does not impose any absolute bar. Section 4 of the said Act specifically provides that when a senior citizen including parent is unable to maintain himself from his own earning or out of the property owned by him, would be entitled to file an application under Section 5 of the said Act.

Learned counsel for the petitioner has submitted that since no appeal is maintainable under the provisions of the Act by the son, he had approached the Court of Additional District Judge, Jalandhar as Appellate Court.

I have considered the contentions of learned counsel for the petitioner and I am of the opinion that as per the judgment of Division Bench of this Court in **Parmjit Kumar Saroya Vs. Union of India and another, AIR 2014 (Pb.) 121**, an appeal under Section 16 (1) is maintainable at the instance of any person aggrieved by the order passed by the Sub Divisional Magistrate.

I am of the opinion that against an order of maintenance passed by Sub Divisional Magistrate, Phillaur, District Jalandhar, an appeal under Section 16 of the said Act is maintainable before the District Magistrate. The petitioner adopted the wrong forum which has decided the appeal against him.

In view of said circumstances, I do not find any ground to interfere in the order passed by the Sub Divisional Magistrate, Phillaur, District Jalandhar, Annexure P-3 awarding interim maintenance of Rs.2000/- per month.

This petition is dismissed with liberty to the petitioner to avail the remedy of appeal in accordance with law, if advised so.

(M.M.S. BEDI)
JUDGE

April 03, 2017
harsha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No