

Sr. No.225

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

LPA-2225-2016(O&M)

Date of Decision: May 22, 2017

Satwant Kaur

....Appellant

VS.

State of Punjab and others

....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR. SHEKHER DHAWAN**

Present:- Mr.Jitender Bansal, Advocate
for Mr. Ajay Singla, Advocate for the appellant.
Mr. Manoj Bajaj, Addl. A. G. Punjab.
Mr. R.D.Bawa, Advocate
for respondent no.3.

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MAHESH GROVER, J

The appellant is the mother in law of respondent no.3 who has been divorced from her husband Tanvir Singh son of the present appellant. The decree of divorce is under challenge in FAO-M-436-2014. The appellant initiated proceedings against Tajwinder Kaur under Rule 23 of the Punjab Maintenance and Welfare of Parents and Senior Citizen Rules, 2012. The District Magistrate noticed that the dispute *inter se* among the appellant and Tajwinder Kaur had been referred to the Mediation and Conciliation Centre and in view of this, dismissed the application altogether. Against this order dated 16.06.2015 passed by the District Magistrate, Gurdaspur, the appellant preferred a writ petition which was simply ordered to be heard along with the FAO-436-2014 preferred by the respondent no.3.

After hearing the learned counsel for the parties, we are of the opinion that the claim of the appellant has not been answered on merits.

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Simply because the matter had been referred to the Mediation and Conciliation Centre would be no cause for the District Magistrate to shirk his responsibility to answer the claim on merits. The proper course for him would have been to await the outcome of the mediation rather than dismissing the application.

Likewise, we are of the opinion that the learned Single Judge also fell in error in not appreciating this aspect. We, therefore, set aside the order passed by the learned Single Judge dated 16.06.2015. Ordinarily we would have remitted the matter back to the learned Single Judge for adjudication but noticing the controversy which centres around the claim of an old woman, desirous of getting her house vacated from respondent no.3, we would deem it appropriate to remit the matter back to the District Magistrate to decide the issue on merits.

Appeal stands disposed of.

Parties are directed to appear before the District Magistrate on 06.07.2017.

**(MAHESH GROVER)
JUDGE**

**(SHEKHER DHAWAN)
JUDGE**

May 22, 2017
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No