

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

LPA No.675 of 2017 (O&M)

Date of Decision : 05.05.2017

Madan Mohan Goswami

....Appellant

Versus

Deputy Commissioner and others

...Respondents

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

....

Present : Mr.S.S.Pathania, Advocate
for the appellant.

.....

MAHESH GROVER, J. (Oral)

This appeal is directed against the order of the learned
Single Judge dated 10.01.2017.

The facts indicate that a dispute arose between father and son regarding some house initiated under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The District Magistrate passed an order dated 20.09.2012 ordering eviction of respondent No.3 but the order remained unimplemented. The said respondent filed CWP No.19271 of 2016 impugning not only the order dated 20.09.2012 but another order dated 04.02.2016 passed in execution proceedings by the District Magistrate ordering the eviction of respondent No.3 through police help. On 19.09.2016 this Court granted an interim

stay to respondent No.3 (writ petitioner in CWP No.19271 of 2016) and his dispossession was stayed. The appellant also earlier filed CWP No.672 of 2013 in which it was disclosed that there were some partition proceedings pending qua the property in dispute. The learned Single Judge at the time of passing the impugned order was dealing with an application for preponement moved by the present appellant. The writ petition preferred by the appellant as also the one preferred by respondent No.3 are both pending and fixed in the month of May itself and have been clubbed together. In these circumstances, the appellant would have ample opportunities to get a decision on merit.

We are of the opinion that the present appeal is totally frivolous in view of the ample remedies available to the appellant before the learned Single Judge himself. The learned counsel for the appellant contends that by making the observations about the maintainability of the writ proceedings his right has been prejudged. We are of the opinion that these observations ought not to be construed as a final expression on the merits of the case and the learned Single Judge after taking into consideration the entire facts in totality would deal with the issues without taking these observations as pre-determination of the maintainability of the writ petition.

Besides this, there is a delay of 51 days in filing the present appeal which we do not intend to condone in the absence

of any plausible explanation.

The appeal stands dismissed.

(MAHESH GROVER)
JUDGE

05.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

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