

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

CWP No. 12012 of 2018

Date of decision : 01.11.2018

Med Singh

...Petitioner

V/s

District Magistrate-cum-Chairman Appellate Tribunal, Rewari & ors.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arun Takhi, Advocate for the petitioner.

Ms. Sofia Gupta, AAG Haryana.

Mr. Rajeshwar Singh Thakur, Advocate
for respondents no. 3 & 4.

RAJAN GUPTA J.

Petitioner has impugned order dated 20.03.2018 (Annexure P-11) passed by District Magistrate, Rewari. Operative part thereof reads as under:-

“It has become clear after hearing both the parties and perusing the case file that shop No. 61, situated at new Anaj Mandi, Rewari is the property of applicant. The above shop has been given by the applicant to respondents and in the above property, Reshma wife of applicant is also living with the respondents. The wife of applicant Reshma is happy with the services of her son Jagdish and grandson Rajesh son of Jagdish. The applicant lives alone or stop the applicant has other property also except shop No. 61 and he has other source of income also which the applicant has not denied. The bone of contention between applicant and respondents is not of maintenance but the applicant wants to take back the shop given to respondents. The applicant for his own maintenance is

financially secured. As per respondents, they are ready to keep the applicant with themselves. No misbehaviour in the past by the respondents with the applicant is proved. In case, there is any dispute between the applicant and respondents regarding ownership/possession, then its decision is expected to be done by a court of competent jurisdiction. In the present circumstances, the application of applicant is devoid of merit which is dismissed. A copy of the order be sent to Sub Divisional Magistrate, Rewari for information.”

Learned counsel for the petitioner submits that the authority instead of deciding the application in light of provisions of the Act has been swayed by certain contentions regarding which there is no proof. There is nothing to show that petitioner has given the shop in question on rent to anybody. Besides, it also observed that there has been no misbehaviour by respondents with the applicant. According to him, these aspects ought not to have been given weightage while deciding the matter in the ambit of provisions of the Act . This court finds substance in the plea.

Under the circumstances, the order under challenge is hereby set-aside. Matter is remitted to same authority for decision afresh as per law.

Petition is allowed in these terms.

November 01, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No