

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.20022 of 2016

Date of decision: May 14, 2018

Nirmala

...Petitioner

Versus

District Magistrate and Appellate
Tribunal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Amit Jain, Advocate for the petitioner.
Ms. Anu Chatrath, Addl. A.G. Punjab.
Mr. Jagdeep Singh Rana, Advocate for
Mr. V.S. Bhardwaj, Advocate for respondent No.3.

Rajan Gupta, J.(oral)

Petitioner has impugned order dated 4.8.2017, passed by District Magistrate, Hisar, whereby the District Magistrate has upheld the order passed by Sub Divisional Magistrate, Hisar. Operative part of the order passed by said authority reads as under:-

“We have heard the arguments of counsel for both the parties and have perused documents placed on record, as per the documents available on record applicant is owner of H.No.28, Bishnoi Colony, Hissar and respondent is daughter-in-law of applicant and is residing in house in question. As per the submissions of counsel for both parties ground floor and first floor is constructed on H.No.28, Bishnoi Colony, Hissar. It is hereby directed on the consent of counsel for both the parties that respondent shall vacate ground floor of House No.28, Bishnoi Colony, Hissar for use and occupation of applicant within 15 days and shall reside at first floor. The case file is ordered to be consigned to record room after due compliance.”

At the outset, it is contended by counsel for the petitioner that both the authorities have decided the issue under the impression that petitioner had consented to the order and an arrangement has been worked out, according to which the petitioner would shift to the ground floor and respondent No.3 to the first floor. He prays that the matter needs to be remitted to the lower appellate authority for decision afresh after hearing the parties. This proposal is acceptable to respondent No.3.

Matter is, thus, remitted to the Appellate Authority for decision afresh by passing a speaking order, after affording opportunity of hearing to the parties. Impugned order is, thus, set-aside. Needless to observe that the matter shall be disposed of expeditiously, in any case not later than six months.

(RAJAN GUPTA)
JUDGE

May 14, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No