

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15921-2018 (O & M)
Date of decision: 25.10.2018

Beero Devi

.... Petitioner

V/s

Appellate Tribunal under the Maintenance and Welfare of Parents and Senior
Citizens Act, 2007 and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Gupta, Advocate, for the petitioner.

Ms.Safia Gupta, AAG, Haryana.

Mr. N.S. Dandiwal, Advocate, for respondent No.3.

Mr. Bharat Bhushan Sharma, Advocate, for respondents No.4
and 5.

RAJAN GUPTA, J. (Oral)

Petitioner has impugned the order dated 08.05.2018 passed by
the appellate authority under the provisions of the Act. Operative part
thereof reads as under:-

*“In view of the aforesaid facts and law, the order dated
5/12/2017 passed by the SDO cum Tribunal Maintenance
Kaithal is set aside and appellants minor are owners of the
land measuring 117 Kanal 12 marla vide mutation no.1022,
1050, 1070 and since the respondent Beero is an old lady and
has no independent source of income, so this appellant
Tribunal cannot lose sight of this fact keeping her welfare and
maintenance, it is ordered that respondent no.1 Smt. Beero
shall remain only in possession of land measuring 23 Kanal 10
Marlas, vide mutation no. 1050, 1070 for her maintenance till
life and she can cultivate or give the said land measuring 23
kanal 10 marle on lease. It is ordered since presently the land
measuring 94 kanal 2 marle vide mutation no.1028, 1050 on*

the basis of mutation no.1022, is in possession of the respondents, therefore they are directed to handover the actual physical possession of the same to the appellants, immediately.”

It has been urged before the court that the appellate authority has gone beyond its jurisdiction while directing that possession of 94 kanal 2 marla of land be restored by the petitioner to private respondents.

This court finds substance in the plea. Apparently, appellate authority was oblivious of the provisions of the Act while passing this order. It was the appellate authority, who could have taken a decision only within the ambit of Section 23 of the Act. Having travelled beyond the ambit, there is a legal infirmity in the aforesaid order. Same is hereby set aside and the matter is remitted to the same authority for a decision afresh as per law.

October 25, 2018
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No