
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19115 of 2018

Date of decision: September 19, 2018

Dharminder Singh and another

...Petitioners

Versus

Deputy Commissioner-cum-Maintenance Tribunal and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Deepak Kumar Bartia, Advocate,
for the petitioners.

Mr. Sanjiv Ghai, Advocate,
for respondents no.1 to 4.

Rakesh Kumar Jain, J. (Oral)

The petitioners are the son and daughter-in-law of respondent No.5 who have filed this petition for seeking a writ in the nature of *certiorari* for quashing the order dated 12.07.2018 passed by the Additional Deputy Commissioner-cum-Maintenance Tribunal, UT, Chandigarh, by which application filed by respondent No.5 for seeking eviction of the petitioners has been allowed.

Learned counsel appearing on behalf of the UT Chandigarh has submitted that the impugned order has been passed by the Additional Deputy Commissioner-cum-Maintenance Tribunal on 12.07.2018 but before that, by way of notification dated 29.11.2017, the Chandigarh Maintenance of Parents and Senior Citizens (2nd Amendment) Rules, 2017 (hereinafter referred to as the "Amended Rules") have been notified. It is submitted that as per Rule 3(3) of the Amended Rules, against an order passed by the Additional Deputy Commissioner-cum-Maintenance Tribunal, an appeal would be maintainable

before the District Magistrate-cum-Appellate Tribunal within a period of 30 days. It is also provided therein that the Appellate Tribunal shall adjudicate such appeal(s) after giving an opportunity of hearing, in accordance with law.

In view of the provision of an appeal under the Amended Rules, learned counsel for the petitioner prays for withdrawal of the present petition in order to challenge the impugned order by way of filing an appeal in terms of Rule 3(3) of the Amended Rules. However, he prays that the delay occurred in filing of the said appeal may be condoned.

In view of the aforesaid facts and circumstances, the present petition is hereby dismissed as withdrawn, with liberty to the petitioners to file an appeal before the District Magistrate-cum-Appellate Tribunal against the impugned order. In case an appeal is filed before the District Magistrate-cum-Appellate Tribunal within a period of 15 days from the date of receipt of certified copy of this order, the same shall be decided on merits, after affording an opportunity of hearing and by passing a speaking order, in accordance with law, *de hors* the delay occurred while approaching this Court.

Before parting, counsel for the petitioners has submitted that the petitioners had to approach this Court because they were not aware of the availability of Forum of appeal because the notification dated 29.11.2017 has not been given any kind of publicity for awareness of the people of Chandigarh. In this regard, he has referred to Chapter V of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the “Act”), which deals with the protection of life and property of senior citizen, in which Section 21 provides for the wide publicity through public media including television, radio and the print at regular intervals. It is

submitted that the mandate of Section 21 of the Act is for the State Government to take all measures to ensure wide publicity of the aforesaid notification.

The cause shown by the counsel for the petitioners is relevant in the present scenario because had this fact been made public by wide publications etc. that there is a Forum of appeal against the order of eviction passed under Section 22 of the Act by the Additional District Magistrate-cum-Maintenance Tribunal, then the petitioners would not have come to this Court and bear unnecessary expenses in this litigation and could have saved their own time and funds as well as of this Court.

In view of the above, the Department of Social Welfare, Women & Child Development, Chandigarh Administration through its Secretary is directed to make necessary wide publicity to the availability of remedy of appeal against the order passed by the Additional District Magistrate-cum-Maintenance Tribunal under Section 22 of the Act before the District Magistrate-cum-Appellate Tribunal in terms of Rule 3(3) of the Amended Rules, so that the aggrieved parties may not have to rush to this Court for the purpose of redressal of their grievances.

A copy of this order be sent to the Secretary, Social Welfare, Women & Child Development Department, Chandigarh Administration for compliance.

September 19, 2018
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(Rakesh Kumar Jain)
Judge

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