

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-30162-2018 (O & M)

Date of decision: 06.12.2018

Rattan Singh and ors.

.... Petitioner(s)

V/s

Additional Deputy Commissioner-cum-Appellate Tribunal (under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007) Rupnagar (Ropar) and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Manbir Singh Batth, Advocate, for the petitioners.

RAJAN GUPTA, J. (Oral)

Notice of motion.

On the asking of the court, Mr. Sahil Sharma, DAG, Punjab, who is present in court, accepts notice on behalf of the State.

Petitioners have impugned order dated 05.07.2018, Annexure P-4, passed by the Additional Deputy Commissioner-cum-Appellate Tribunal, Rupnagar-respondent No.1. Operative part thereof reads as under:-

“The Arguments of the learned counsels have been heard very carefully by the undersigned. The record came on the file has been perused with due care and caution. Upon perusal, it has been found that in the civil suit filed by the applicant party, the decision which will be made by the Hon’ble Court in the Civil Suit, the same may be acceptable. In the meanwhile, while exercising the powers got through action plan Notification 10/20/2014-D. C./353259/1, dated 27.11.2004 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 direct the respondents to relinquish the possession of the land owned by the applicants. Besides this, the Sub Divisional Magistrate,

Shri Anandpur Sahib and D.S.P., Shri Anandpur Sahib are hereby directed that after getting relinquished the possession of the land owned by the applicants from the respondents, the possession may be got delivered to the applicants within a period of 30 days. The order has been pronounced. A copy of this order may be sent to Sub Divisional Magistrate, Shri Anandpur Sahib and D.S.P., Shri Anandpur Sahib for getting relinquished the possession of the land owned by the applicants from the respondent and to the applicants/respondents party for information. The order has been pronounced. The file may be consigned to the record room after due compliance.”

It has been contended before the court that the order is non-speaking in nature as neither provision of Statute nor precedent has been referred to by the authority while deciding the matter. He prays that the matter be remitted to the same authority for a decision afresh. This prayer is not opposed by the learned State counsel.

As this court is convinced that the order is non-speaking and no reasons have been assigned therein to ask the petitioners to relinquish the possession of the property, this court accepts the prayer. The impugned order is, thus, set aside. Matter is remitted to the same authority for a decision afresh as per law. This court is conscious of the fact that the order is being passed without notice to respondent No. 2 and 3. However, the matter is only being remanded to the same authority for a decision afresh, this court feels no necessity of issuing the formal notice to the said respondents.

Allowed in these terms.

December 06, 2018
sukhpreet

(RAJAN GUPTA)
JUDGE

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