

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

CWP No.18282 of 2019 (O&M)

Date of Decision:09.07.2019

Deepak Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. G.S. Madaan, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.(Oral)

This is the second time over that the petitioner herein has filed a writ petition under Article 226 of the Constitution of India assailing the order dated 20.07.2018 (Annexure P-4) passed by the Additional Deputy Commissioner-cum-Additional District Magistrate, Ludhiana and whereby an application moved by the father under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter to be referred to as the 'Act'), has been dealt with and the petitioner herein has been evicted from the premises in question.

In the first round the writ petition had been permitted to be withdrawn so as to enable to the petitioner to avail of his remedy of appeal against the impugned order.

Counsel would justify the filing of the instant petition by contending that even though an appeal has been preferred before the Divisional Commissioner, Patiala Division, Patiala, but the appeal has made no progress as the petitioner has been orally informed that under

Section 16 of the 2007 Act, an appeal is maintainable only at the hands of the senior citizen.

Having heard counsel for the petitioner it is observed that the apprehension entertained by the petitioner as regards the appeal being not entertained is not well-founded.

A Division Bench of this Court in *Paramjit Singh Saroya Vs. Union of India and another 2016 (3) RCR (Civil) 146* has examined the scope of Section 16 of the 2007 Act and has taken a view that even though as per language of the provision the right of appeal is to a senior citizen alone but the effected parties also have a right to appeal. A view was taken that not to provide right of appeal Section 16 (1) of the 2007 Act to the effected persons is only an accidental legal omission.

In view of the dictum laid down by the Division Bench in Paramjit Singh's case(supra) there would be no legal embargo for the Appellate Authority to proceed further and to take a final decision on the appeal in accordance with law.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

July 09, 2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No