

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-18908-CWP-2019 and
CM-18913-CWP-2019 in/and
CWP-32741-2019
Date of Decision:-18.12.2019.

Harman Singh and others

.....Petitioners

Versus

The Deputy Commissioner, Patiala and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: None for the petitioners.

Mr. Ramandeep, Advocate for respondent No.3.

SANJAY KUMAR, J. (Oral)

Despite the matter being passed over twice, there is no representation for Mr. Rakesh Gupta, learned counsel for the writ petitioners.

CM-18908-CWP-2019 was filed by the 3rd respondent in this writ petition to advance its date of hearing while CM-18913-CWP-2019 was filed by her to vacate the interim order dated 25.11.2019 passed in this writ petition.

Upon hearing Mr. Ramandeep, learned counsel for the third respondent, CM-18908-CWP-2019 is ordered and the main writ petition is taken up for hearing.

The grievance of the writ petitioners was that their appeal was

dismissed by the Additional Deputy Commissioner (Collector), Patiala, contrary to law. The said appeal arose out of the order dated 14.08.2018 (Annexure P-2) passed by the Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter 'the Act of 2007'), accepting the plea of the third respondent herein, the grandmother of the petitioners, and cancelling the transfer of ownership under transfer deed bearing *Vasika* No.2002 dated 26.07.2012, relating to a piece of land admeasuring 20 *bighas*, 18 *biswas* at Village Ajnauda Khurd, Tehsil Nabha, District Patiala, and directing necessary mutation to be carried out in the record. Aggrieved thereby, the petitioners filed an appeal before the Additional Deputy Commissioner (Collector), Patiala. By the impugned order dated 14.08.2018 (Annexure P-2), the Appellate Authority dismissed the appeal on the ground that Sections 16 of the Act of 2007 did not entitle anyone other than the senior citizen or parent to prefer such an appeal. Assailing the dismissal of the appeal on this technical ground, the petitioners approached this Court.

By order dated 25.11.2019 passed in this writ petition, this Court took note of the fact that the appellate order was contrary to the settled legal position and granted interim stay of further proceedings pursuant to the impugned primary and appellate orders. The third respondent thereupon, filed the present miscellaneous applications.

Mr. Ramandeep, learned counsel for the third respondent, would fairly concede that in terms of the law laid down by a Division Bench of this Court in ***Paramjit Kumar Saroya Vs. The Union of India and another, 2014 AIR (Punjab) 121***, an appeal would lie under Section 16 of

children of the senior citizen concerned. As the Appellate Authority overlooked the law laid down by this Court in the aforesaid decision and proceeded to dismiss the appeal on a technical interpretation of Section 16 of the Act of 2007, it would be appropriate that the Appellate Authority reconsider the matter.

The writ petition is accordingly allowed setting aside the order dated 14.08.2018 (Annexure P-2) passed by the Additional Deputy Commissioner (Collector), Patiala. The appeal filed by the writ petitioners shall stand restored to the file of the said Appellate Authority for consideration afresh on merits and in accordance with law. The Appellate Authority shall endeavour to dispose of the said appeal in terms of Section 16 (6) of the Act of 2007.

CM-18913-CWP-2019 is rendered infructuous in the light of this final order and the same is accordingly dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

December 18, 2019.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.