

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-9186-2020(O&M)

Date of decision :06.07.2020

VAIBHAV KAUSHAL AND ANOTHER

.....Petitioners

versus

DEPUTY COMMISSIONER, GURUGRAM
AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sachin Mittal, Advocate,
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ of certiorari quashing the order dated 21.01.2020 passed by the District Magistrate, Gurugram, in case No.42/SC/DM titled as Lt. Col. (Dr.) Ratnesh Kumari Sharma v/s Vaibhav Kaushal etc. under The Maintenance and Welfare of Parents and Senior citizens Act, 2007 and rules thereunder in the year 2009.

The grievance of the petitioners is that the District Magistrate has passed ex-parte order of eviction without granting opportunity to the petitioners.

Once the petitioners complain that they were wrongly proceeded against ex-parte, therefore, in the considered opinion of this court, the writ petitioners have an effective alternative remedy of filing an application before the District Magistrate for setting aside the ex-parte order. On perusal of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, it is apparent that there is no restriction/prohibition/bar

in filing of an application for setting aside the ex-parte order/proceedings.

In the considered opinion of this court, normally quasi judicial authorities while adjudicating a dispute has power to proceed ex-parte against a party to the proceedings.

Consequently, the authority also has the power to set aside the ex-parte proceedings, if the party proceeded against ex-parte, subsequently appears and furnishes sufficient cause for non appearance.

Keeping in view the aforesaid facts, the petitioners are relegated to the remedy before the District Magistrate. However, since the learned District Magistrate has already passed an order of eviction, therefore, operation and effect thereof is stayed for a period of 2 weeks, enabling the petitioners to file an application for setting aside ex-parte order of eviction.

If such application is filed, the District Magistrate is requested to decide the application, within next 6 weeks.

With these observations, the writ petition is disposed of.

July 06, 2020
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(ANIL KSHETARPAL)
JUDGE

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