

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

CWP-9692-2022

Date of decision: 02.08.2022

BHAG SINGH

...Petitioner

VS

ANIL BHABORIA AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Bansal, Advocate,
For the petitioner.

Mr. Saurabh Mohunta D. A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing impugned order dated 31.03.2022 (Annexure P-5) whereby appeal was accepted by the Appellate Authority by setting aside the well reasoned and legal order dated 03.12.2019 (Annexure P-3) and remanding the case back to Court of Respondent No.2 who had accepted the petition filed by the petitioner-Senior Citizen under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and ordered the cancellation of Transfer Deed dated 19.06.2013.

2. I have heard the respective competing contentions of the learned seniors. Keeping in view the nature of controversy involved herein, since the same is already *res judice*, I need not labor all over again. Reference may simply be had to my earlier decision rendered in **CWP-25148-2018** titled **Surindera Devi versus State of Punjab and others**, vide judgment/order dated 14.07.2022, relevant thereof is extracted herein below:-

“7. *In this background, the meaning and intent of Section 16 of the Act assumes even more significance inasmuch as a bare reading*

of the same would reveal that while the appellate authority has been specifically conferred the power to examine the appeal and the records and either call for same before it from the Tribunal and thereafter either to allow it or reject it. The words ‘remand’ are missing in Section 16 of the Act, unlike the case under Order 41 Rules 23 and 25 of CPC where the appellate Court is specifically conferred the power of remand.

X-X-X-X-X-X-X

8. In the totality of circumstances and as an upshot of the above discussion, I am of the view that the appellate Tribunal is not conferred with the power of remand under Section 16 of the statute and upon entertaining the appeal must either reject or accept the same, wholly or partly as the case may be. Therefore, the impugned appellate order herein is not sustainable and is accordingly set-aside. The matter is remanded back to the appellate Tribunal for fresh consideration and adjudication. The parties are at liberty to move appropriate application before the appellate Tribunal.”

3. In the premise, writ petition is disposed of in terms of judgment *ibid* and appellate order is quashed. Since the order impugned herein is being set aside, it is expected of the Appellate Authority to decide the pending appeal afresh after examining every aspect of it on its own merits without being influenced by its earlier order of remand. Given the age of the petitioner-Senior Citizen, who is stated to be currently 77-year old, it is expected that the Appellate Tribunal shall not grant unnecessary adjournments and decide the case as expeditiously as possible, in any case, within a period of 6 months.
4. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 02, 2022

vandana

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