

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

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CWP No.35382 of 2019 (O&M)
DATE OF DECISION : 2nd FEBRUARY, 2022

Satpal Singla

.... **Petitioner**

Versus

Deputy Commissioner-cum-District Magistrate, Sonapat & others

.... **Respondents**

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CWP No. 1709 of 2020 (O&M)

Gulshan Singla & another

.... **Petitioners**

Versus

Deputy Commissioner-cum-District Magistrate, Sonapat & others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court
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Present : Mr. Nandan Jindal, Advocate
for petitioner in CWP-35382-2019 and
for applicant-respondents No.4 & 5 in CM-1483-CWP-2021
in CWP-1709-2020.

Mr. Arvind Moudgil, Advocate
for respondents No. 4 & 5 in CWP-35382-2019 and
for the petitioners in CWP-1709-2020.

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RAJBIR SEHRAWAT, J. (Oral)

CM-1483-2021 in CWP-1709-2020

This is an application filed under Section 151 C.P.C. for
placing on record the written statement on behalf of respondents No.4 &

5 along with Annexures R-4/1 to R-4/3 and for exemption from filing the certified copies of the same.

The application is allowed as prayed for and the written statement on behalf of respondents No.4 & 5 is taken on record, subject to all just exceptions.

CWP No.35382 of 2019 & CWP-1709-2020

The petitioner-Satpal Singla in CWP No. 35382 of 2019 has filed the present petition under Articles 226 & 227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus directing the respondent No.2 to enforce the order dated 04.07.2019 (Annexure P-1) passed by the statutory authority for the protection of life and property of the senior citizen under The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and Rule 24 of the Haryana Maintenance of Parents and Senior Citizen Rules 2009; along with certain other prayers. The petitioners-Gulshan Singla & another have filed other CWP No.1709 of 2020 under Article 226 of the Constitution of India seeking quashing of impugned order dated 31.12.2019 passed by the Maintenance Tribunal, Sonipat in appeal No.58/DC of 2019, arising from the above said order dated 04.07.2019, whereby the stay earlier granted vide order dated 26.11.2019 has been vacated, along with certain other prayers.

Notice of motion was issued in the cases and the matters have been pending before this court since long. However, it has come out during the arguments that the orders under challenge in CWP No.1709 of 2020 is against the interim order passed, in appeal, by the appellate Tribunal under The Maintenance and Welfare of Parents and Senior Citizen Act. The main appeal is still pending and it has not been

decided by the appellate Tribunal so far because of the pendency of the present petitions. The CWP No.35382 of 2019 is for enforcement of order which is under appeal in the above said appeal before the appellate Tribunal. Hence, it would be appropriate to direct the appellate Tribunal to take a final decision on the appeal pending before it, in accordance with law, instead of keeping the matter pending here.

The counsel for the petitioner in CWP No.1709 of 2020 has submitted that when the writ petition was entertained by this court the petitioner(s), were granted interim protection by this court because the Tribunal had *ex parte* vacated the interim order which was earlier granted in favour of the petitioner(s) by the same Tribunal. Therefore, the interim protection granted by this court should be continued if the court intends to send back the matter to the Tribunal.

As response to this, the counsel for the respondent, who is the petitioner in other writ petition, has submitted that even the interim order granted in favour of the petitioner(s), was passed by the appellate Tribunal *ex parte* without even hearing the respondents. In fact, the said appeal itself was filed after the respondents-Satpal Singla had already approached the High Court by way of above said CWP No.33259 of 2019. Therefore, since that petition filed by the respondents-Satpal Singla was earlier in point of time, and till that time the petitioner(s) had not even preferred any appeal before the Tribunal, therefore, the interim order does not deserve to be continued; if the matter is to be sent back to the Tribunal.

Having heard the counsel for the parties this court finds that the present petitions have arisen only from order dated 04.07.2019 or from the interim order passed by Tribunal in the appeal arising from the said order dated 04.07.2019. There is no justification for keeping the petitions pending here, which have stalled even disposal of the statutory appeal pending before the appellate Tribunal. Still further, this court does not consider it appropriate to continue any interim order in the matter while sending the matter back to the Tribunal, lest it should prejudice the case of either of the parties.

Accordingly, the present petitions are disposed of with a direction to the appellate Tribunal to decide the statutory appeal filed by the petitioner(s) in CWP No.1709 of 2020, within a period of two weeks from the date of receipt of the certified copy of this order and to arrive at an independent and conscious decision thereon by recording reasons.

It is further ordered that in case the said appeal is dismissed then the order dated 04.07.2019 shall be implemented in favour of Satpal Singla within a further period of four weeks.

All the pending applications, if any, stand disposed of accordingly.

2nd FEBRUARY, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No