

201

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

**CWP-4419-2022 (O&M)
Date of decision-16.01.2023**

Rajinder Kaur

...Petitioner

Vs.

Additional District Magistrate, Ambala and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Brijender Kaushik, Advocate,
for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Bhag Singh, Advocate,
for respondent No.3.

MANOJ BAJAJ, J. (Oral)

Petitioner-Rajinder Kaur has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of order dated 25.1.2022 (Annexure P-3), whereby the Additional District Magistrate, Ambala has accepted the application filed by respondent No.3-mother-in-law of petitioner thereby ordering petitioner's eviction from the residential house.

Written statement on behalf of respondent No.3 filed in Court today, and the same is taken on record.

Learned counsel has argued that respondent No.3 had filed an

application under Section 22 (2), Maintenance and Welfare of Parents and Senior Citizens Act, 2007 read with Rule 24 of Haryana Maintenance of Parents and Senior Citizens Rules, 2009 and prayed for eviction of petitioner/daughter-in-law from her residential property and the claim was not maintainable only for the eviction, as she did not claim any maintenance. Learned counsel has pointed out that the petitioner's husband, who is son of respondent No.3, had died and the property in question came to her possession by way of a family settlement dated 05.09.2017, and though the said settlement was not signed by the petitioner, but her rights were determined in the property by the brothers of her husband and respondent No.3.

Further, it has been pointed out that the impugned order is dated 25.01.2022 (Annexure P-3), whereas the Presiding Officer, who passed the impugned order stood transferred vide order dated 03.09.2021, and in this regard, he has drawn the attention of the Court to his transfer order dated 03.09.2021 (Annexure P-5). According to the learned counsel, this fact is not disputed by the Presiding Officer in his short reply filed by way of affidavit dated 30.07.2022, wherein it has been specifically mentioned that he remained posted as Additional District Magistrate, Ambala w.e.f. 03.03.2021 to 03.09.2021 and had decided the case titled '*Banto Devi Vs. Rajinder Kaur*', but he could not sign the order immediately after pronouncing the same, because of multiple charges of various departments.

This fact is not disputed by learned counsel appearing on behalf of Banto Devi, who submits that the impugned order in fact was passed on

06.07.2021, but it was signed by the Presiding Officer after his transfer vide order dated 03.09.2021.

After hearing the learned counsel for the parties and analyzing the material on record, it transpires that though the Presiding Officer has claimed to have pronounced the decision on 06.07.2021, but the same was not signed by him till he remained posted as Additional District Magistrate, Ambala. Admittedly, the Officer was transferred from Ambala on 03.09.2021, therefore, he had no occasion to sign the order after hearing the charge. Thus, the impugned decision cannot be treated as a valid pronounced decision, therefore, on this ground alone, the same is set aside and the case is remanded back to Additional District Magistrate, Ambala for deciding it afresh, in accordance with law.

It is further clarified that the Additional District Magistrate, Ambala would consider the merits of the case independently and shall not be influenced by the observations made in the decision dated 25.01.2022 (Annexure P-3).

Disposed of.

(MANOJ BAJAJ)
JUDGE

16.01.2023

geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No