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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6987-2019 (O&M)
Date of Decision: 30.01.2023

BIKRAMJIT AND ANOTHER

.. Petitioners

Vs.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. G.S. Sullar, Advocate for the petitioners.

Ms. Shivani Sharma, DAG, Punjab.

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

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 15.11.2017 passed by the District Magistrate, Patiala, whereby an application moved by respondent No.3 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was allowed and the petitioners were directed to be evicted from the premises in question.

Learned counsel for the petitioners has invited the attention of the Court to the para 2 of the impugned order dated 15.11.2017 to contend that upon their appearance before the District Magistrate, Patiala, the impugned order was passed without even affording them any opportunity to file the reply or submissions. He submits that the District Magistrate, Patiala has shown undue haste in deciding the claim of the senior citizen in his favour without even taking the rival stands of the petitioners and this has

caused prejudice to them. Learned counsel prays that the impugned order be set aside and the application filed by the senior citizen be dismissed.

The prayer is opposed by the learned counsel for the respondent No.3, who submits that respondent No.2 has passed a well reasoned order, whereby the petitioners have been evicted from the house, which belongs to the senior citizen and this fact is not even disputed by the petitioners. He submits that the impugned order does not warrant any interference by this Court.

After hearing the learned counsel for the parties and considering the above background, it transpires that the District Magistrate, Patiala on 15.11.2017 asked the petitioners to submit their response and observed that no reply has been filed by them. The Presiding Officer proceeded to accept the prayer of the senior citizen primarily on the ground that the house is owned by the father. Thus, it is clear that no proper opportunity of hearing was given to the petitioners when the claim is decided against them. A perusal of the written statement filed by the senior citizen also contains an averment that when the petitioners were given an opportunity to defend their case, they could not give any defence, therefore, the District Magistrate, Patiala has rightly passed the impugned order.

Thus, considering the above background, particularly the nature of the summary proceedings under the Maintenance and Welfare of Parents & Senior Citizens Act, 2007, this Court has no hesitation in holding that the District Magistrate, Patiala has shown undue haste in deciding the claim in favour of the senior citizen without giving adequate opportunity to the contestants, therefore, the impugned order is set aside and the case is remanded back before the District Magistrate, Patiala for deciding afresh.

Since, the application under the Maintenance and Welfare of Parents & Senior Citizens Act, 2007 was filed by senior citizen in October, 2017, therefore, the same be decided expeditiously, preferably within a period of three months. Parties shall appear before the District Magistrate, Patiala on 28.02.2023.

Petition is allowed.

30.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No