IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-5844-2022 (O&M)
Date of decision : 19.09.2023

Sagar Doon

... Petitioner

Versus

The Deputy Commissioner-cum-Appellate Authority

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sunil Chadha, Senior Advocate with
Mr.Rahul Bhargav, Advocate
Mr.Tara Dutt, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

Mr.Randeep S. Rai, Senior Advocate with
Ms.Eknoor Kaur Sara, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ, order or direction, especially in the nature of a writ of mandamus directing respondent no.1 to decide the appeal (Annexure P-8) as well as all the interim applications (Annexures P-10, P-15 and P-16) filed by the petitioner in a time bound manner, with a further prayer for stay of the operation of the order dated 04.08.2021 (Annexure P-7).

2. Learned senior counsel for the petitioner has submitted that in the present case against the order dated 04.08.2021 (page 43 of the paper book), the petitioner had filed an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and with

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the said appeal, had moved an application for stay of operation of the order dated 04.08.2021 (Annexure P-9) and when no order was passed on the same, approached this Hon'ble High Court by filing CWP-16992-2021, which was disposed of by a coordinate Bench of this Court vide order dated 02.09.2021. Relevant portion of the said order which has been highlighted, is reproduced hereinbelow:-

> *"Of course expeditious disposal of a case is a right of every litigant. After hearing learned Senior counsel for the petitioner and going through the record, the writ petition is disposed of directing Deputy Commissioner – cum – Appellate Authority, Panchkula to dispose of applications, copies Annexures P12 and P13 within seven days of production of copy of order before him. He may prepone the date of hearing in the case, if need be for that purpose.*
>
> **02.09.2021"**

3. It is submitted that when the said order was also not complied with, the petitioner moved CM-14082-CWP-2021 in the said writ petition, in which the following order was passed on 23.09.2021:-

> *"At this stage, file has been taken up at request of learned State counsel.*
>
> *Learned senior counsel for the applicant-petitioner is also present.*
>
> *Deputy Commissioner, Panchkula has put in appearance through video conferencing. He has expressed his regrets for not disposing of the applications within stipulated period stating that he would take up the matter today itself at 03.30 p.m. and then dispose of the applications, in accordance with law.*
>
> *It being so, the applications so filed on behalf of the petitioner stands disposed of.*
>
> ***23.09.2021"***

4. It is submitted that thereafter, vide order dated 23.09.2021, the Deputy Commissioner, Panchkula passed an order of status quo after observing that when the application for stay was received on 20.08.2021, the execution of the order had been completed. Learned senior counsel for the petitioner has submitted that thereafter the present petition was filed and

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on 23.03.2022, a coordinate Bench of this Court was pleased to pass the following order:-

> *"Notice of motion.*
>
> *On advance service of copy of the petition, learned State counsel joins the proceedings and accepts notice on behalf of respondent No.1.*
>
> *Adjourned to 13.07.2022.*
>
> *In the meanwhile, none of the parties shall seek or be allowed remittance of the already deposited rent.*
>
> *March 23, 2022."*

5. Learned senior counsel for the petitioner has submitted that since, in the present case, the tenant is occupying the premises in question, thus, one of the issues of dispute is as to who would be entitled to receive the rent of the property in question which was initially transferred by respondent no.2 in favour of the petitioner vide a transfer deed, which had been cancelled by the first authority.

6. Learned senior counsel for the petitioner as well as learned senior counsel for respondent no.2, during the course of arguments, have jointly submitted that the appellate authority be directed to decide the appeal filed by the petitioner in a time bound manner independently and after taking into consideration the arguments raised by both the parties and has prayed that till such time, the appeal is decided, interim order dated 23.03.2022 may continue and the amount of rent which has accrued from 04.08.2021 would be paid to the party, who will be successful before the appellate authority but the same be subject to the final outcome of the present lis between the parties.

7. Keeping in view the above said facts and circumstances and the joint statements made by learned senior counsel for the petitioner and learned senior counsel for respondent no.2, the present petition is disposed of with the following directions:-

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i) The appellate authority-cum-Deputy Commissioner would decide the appeal filed by the petitioner dated 20.08.2021 (Annexure P-8) under Section 16 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 as expeditiously as possible, preferably within a period of one month from the date of the receipt of the certified copy of the order. It was brought to the notice of this Court that the next date is 21.09.2023 and thus, the parties to the present lis would appear before the appellate authority on the said day and would apprise the appellate authority about the passing of the present order.

ii) The order dated 23.03.2022 passed by the coordinate Bench of this Court which has been reproduced hereinabove would continue to operate till the time the appeal is finally adjudicated by the appellate authority.

iii) It had been brought to the notice of this Court that the tenant has vacated the premises on 01.09.2021. The party, who wins the matter before the appellate authority / Deputy Commissioner, would be entitled to receive rent for the disputed period i.e., 04.08.2021 uptill the date when the tenant left the premises.

iv) That such entitlement / payment would be further subject to the final decision of the litigation arising from the present proceedings.

v) The order dated 23.09.2021 directing the parties to maintain status quo would be continued till the final decision of of the appellate authority in the appeal filed by the petitioner.

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8. It is made clear that this Court has not opined on the merits of the case and the appellate authority would decide the case independently, in accordance with law, after considering the arguments of both the parties.

9. Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

September 19, 2023
Davinder Kumar

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

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