

**CWP-13064-2022 along with
other connected cases**

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2023:PHHC:161168

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

(210)

1. CWP-13064-2022

Kanwaljit SinghPetitioner

Versus

**Sub Divisional Magistrate-cum-Presiding Officer & Ors.
.....Respondents**

2. CWP-13080-2022

Kanwaljit SinghPetitioner

Versus

**Sub Divisional Magistrate-cum-Presiding Officer & Ors.
.....Respondents**

3. CWP-13103-2022

Kanwaljit SinghPetitioner

Versus

**Sub Divisional Magistrate-cum-Presiding Officer & Ors.
.....Respondents**

4. CWP-13116-2022

Kanwaljit SinghPetitioner

Versus

**Sub Divisional Magistrate-cum-Presiding Officer & Ors.
.....Respondents**

5. CWP-14174-2022

Parminder SinghPetitioner

Versus

**Sub Divisional Magistrate-cum-Presiding Officer & Ors.
.....Respondents**

Date of decision: - 15.12.2023

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Prateek Sodhi, Advocate, for the petitioner(s).

Mr. Ajit Singh Natt, AAG, Punjab.

Mr. Vijay Kumar Jindal, Senior Advocate, with
Ms. Rupinder Kaur Thind, Advocate,
Mr. Samar P.S. Ahluwalia, Advocate, and
Ms. Mannat Sibal, Advocate, for respondent No.2.

Mr. Chetan Bansal, Advocate
for respondents No.3, 4 and 7 in CWPs-13064-2022,
13080-2022 and for respondents No.3 and 4
in CWPs-13103-2022, 14174-2022 and
CWP-13116-2022.

Ms. Sarika Gupta, Advocate
for respondents No.6 and 8 in CWPs-13064-2022,
13080-2022, 13103-2022 & for respondents No.6 and 7
in CWP-14174-2022.

VIKAS BAHL, J. (ORAL)

1. This order shall dispose of five writ petitions bearing CWP-13064-2022; CWP-13080-2022; CWP-13103-2022; CWP-13116-2022 and CWP-14174-2022.

2. With the consent of learned counsel for the parties, CWP-13064-2022 has been taken as the lead case and the facts are being noticed from the said petition.

3. Challenge in the present writ petition is to the order dated 04.04.2022 (Annexure P-5), whereby respondent No.1/Sub Divisional Magistrate-cum-Presiding Officer, Maintenance Tribunal, Amritsar II, District Amritsar, has allowed the application filed by respondent No.2, who is a senior citizen and has set aside the transfer deed bearing No.12353 dated 27.12.2017.

4. Learned Senior counsel for respondent No.2 as well as

learned counsel for the remaining private respondents have submitted that against the impugned order, an appeal would be maintainable under Section 16 of The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 (hereinafter referred as 'the Act of 2007') and have submitted that the beneficiaries of the transfer deed have already filed an appeal before the appellate Tribunal and the same is pending. It is stated that the petitioners are stated to be agreement to sell holders from the said beneficiaries. It is further submitted that in view of judgment passed by the Hon'ble Division Bench of this Court in 'Paramjit Kumar Saroya Vs. Union of India and another', reported as 2016(3) RCR (Civil) 146, the petitioners would also fall within the definition of aggrieved person so as to institute the said appeal.

5. Learned State counsel has also submitted that in view of the above-said judgment of the Hon'ble Division Bench of this Court, the appeal would be maintainable against the impugned order at the instance of the petitioner(s).

6. Learned counsel for the petitioner(s), in view of the said objection taken, seeks to withdraw the present writ petition with liberty to the petitioner(s) to file an appeal/appeal(s) before the appellate Tribunal. It is prayed that since the petitioner(s) were pursuing the present remedy, therefore, in case the petitioner(s) file an appeal/appeal(s) within a period of 30 days from today, then, the appellate authority be directed not to dismiss the said appeal/appeal(s) solely on the ground of limitation. It is further prayed that the petitioner(s) be permitted to move an application for stay along with the said appeal/appeal(s) and the appellate Tribunal be

directed to decide the said application in a time bound manner, in accordance with law.

7. In view of the above-said facts and circumstances, the present writ petitions are dismissed as withdrawn with liberty to the petitioner(s) to file appeal/appeal(s) against the impugned orders and in case the said appeal/appeal(s) is/are filed within a period of 30 days from today, then, the appellate Tribunal would not dismiss the said appeal/appeals solely on the ground of limitation. The said appeal/appeals would be heard along with the appeals filed by Shamsher Singh, Daler Singh, Gurteg Singh and all sons of late Jaspal Singh, who have also challenged the order dated 04.04.2022 (Annexure P-5). Counsel for the parties would make a joint request regarding the same.

8. It would be open to the petitioners to move an application(s) for stay along with the said appeal/appeals. In case any such application is filed, then, the appellate Tribunal is directed to consider the said stay application and pass an appropriate order in accordance with law within a period of 10 days from the date of filing of the present appeal/appeals along with the stay application.

9. It is made clear that this Court has not opined on the merits of the cases and the appellate Tribunal would consider the stay application as well as the appeal/appeals independently, in accordance with law.

December 15, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No