

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-14680-2023

Date of decision : 25.07.2023

Chinki Mavi

... Petitioner

Versus

Sub Divisional Magistrate-cum-President, Maintenance Tribunal and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Navmohit Singh, Advocate
for the petitioner.Mr.Amandeep Joshi, DAG, Haryana
for respondents no.1 and 2.Mr.Abhimanyu Balyan, Advocate
for respondent no.3.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction especially in the nature of certiorari for quashing the order dated 21.09.2022 passed by the Sub Divisional Magistrate-cum-Tribunal President (Annexure P-2) as well as order dated 16.05.2023 passed by the appellate authority (Annexure P-4).

2. On 13.07.2023, this Court was pleased to pass the following order:-

“Inter alia, contends that in the present case, the appeal filed by the petitioner has been dismissed on the ground that since the petitioner is not a senior citizen, thus, the same is not maintainable. It is further contended that as per the judgment of the Division Bench of this Court in “Paramjit Kumar Saroya Vs. Union of India and another, reported as 2016(3) RCR 146, an appeal would be maintainable on behalf any effected

party. It is also contended that the petitioner is the daughter-in-law of respondent No.3 and there was a divorce petition filed by the husband against the petitioner and the said petition has been filed only to evict the petitioner.

Notice of motion for 20.07.2023.

On the asking of the Court, Ms. Palika Monga, DAG, Haryana, appears & accepts notice on behalf of respondents No.1 and 2 and seeks time to file reply.

Liberty is granted to the petitioner to serve respondent No.3 through dasti process as well.

Till the next date of hearing, status quo, as it exists today, regarding possession be maintained.

To be taken up at 1.45 PM.

July 13, 2023

*(VIKAS BAHL)
JUDGE"*

3. Learned counsel appearing for respondent no.3 has submitted that in view the 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***, it is not in dispute that the appeal against the impugned order is maintainable but has stated that there are several other issues calling for dismissal of the appeal including the fact that the petitioner had compromised the matter. It is further submitted that in case, the matter is remanded to the appellate Tribunal, then respondent no.3 be granted liberty to raise all the pleas including the plea of matter having been compromised.

4. Learned counsel for the petitioner has submitted that the petitioner also be permitted to raise all the pleas, which are available to her under the law and the appellate authority be directed to decide the case on merits after taking into consideration all the arguments raised by both the sides.

5. The Division Bench of this Court in ***Paramjit Kumar Saroya's***

affected party and the observation in the impugned order dated 16.05.2023 to the effect that the appeal has been filed by a person who is not senior citizen and is not maintainable under the Act, is illegal and perverse and in the teeth of the judgment of the Hon’ble Division Bench. Accordingly, the present appeal is partly allowed and the impugned order dated 16.05.2023 is set aside and the appellate authority, Faridabad, is directed to hear the appeal afresh and to decide the same, in accordance with law, after taking into consideration all the pleas raised by all the parties. The parties are directed to appear before the appellate authority on 16.08.2023.

6. It is made clear that this Court has not opined on the merits of the case and it would be open to all the parties to raise all pleas as are available to them, in accordance with law, before the appellate authority.

(VIKAS BAHL)
JUDGE

July 25, 2023
Davinder Kumar

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