

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

275

CWP-19592-2019

Date of Decision: 18.12.2023

Usha Rani

..... Petitioner

Versus

Chairman Tribunal of Maintenance and
Welfare of Parents and Senior Citizen and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Jai Bhagwan, Advocate and
Mr. Sandeep Kumar Rana, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

None for respondent No.3.

None for respondent No.4.

VIKAS BAHL, J (ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 18.04.2019 (Annexure P-3) passed by respondent No.1, whereby, the petitioner has been directed to vacate the house within a period of 30 days.

2. On 4.9.2023, this Court had pleased to pass the following order:-

“Learned counsel for respondent No.4 prays for an adjournment to file reply.

Adjourned to 15.12.2023.

Reply, if any, be filed on or before the next date of hearing with an advance copy to learned counsel for the petitioner.”

3. Learned State counsel has submitted that in view of the instructions No.21754 dated 29.11.2023, the appeal against the impugned order which has been passed by the Chairman, Tribunal-cum-SDM, would lie before the Appellate Tribunal under Section 16 of the Act. It has further been submitted by learned State counsel that the appeal would also be maintainable

on behalf of the petitioner in view of the law laid down by Hon'ble Division Bench of this Court in '*Paramjit Kumar Saroya Vs. Union of India and another*', 2016(3) RCR (Civil) 146.

4. Learned counsel for the petitioner has submitted that in view of the said instructions, the petitioner is permitted to withdraw the present petition with liberty to file an appeal and has submitted that since the petitioner is pursuing the present remedy and thus, in case he files an appeal before the Appellate Tribunal within a period of one month from today, the same be not dismissed solely on the ground of limitation.

5. Learned counsel for the petitioner has further submitted that during the pendency of the present writ petition, the petitioner has been dispossessed and would also seek liberty to move an appropriate application along with the appeal seeking restoration in case the appeal of the petitioner is ultimately allowed.

6. Keeping in view the above facts and circumstances of the case, the petitioner is permitted to withdraw the present petition with liberty to file an appeal under Section 16 of the Act. In case, the appeal is filed within a period of one month from today, the Appellate Tribunal would not dismiss the same solely on the ground of limitation and would decide the same in accordance with law, as expeditiously as possible.

7. In view of the above, the present writ petition is dismissed as withdrawn with the liberty aforesaid.

8. It would be open to the petitioner to move an application for restoration in accordance with law which the Appellate Tribunal would decide after hearing all the parties concerned, after following due procedure of law.

18.12.2023

D.Bansal

(VIKAS BAHL)
JUDGE