

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

CWP-23772-2019

Date of decision : 04.05.2023

Harbhajan Singh

...Petitioner

Vs.

**Deputy Commissioner-cum-
Appellate Tribunal, Gurdaspur,
Punjab and others**

Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arun Takhi, Advocate for the petitioner.
Mr. Ajay Pal Singh Rehan, Advocate for the respondent No.4.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ of certiorari to challenge the order dated 13.06.2019 (Annexure P-7) passed by the appellate authority whereby, it has affirmed the decision dated 25.07.2018 (Annexure P-5) passed by the Maintenance Tribunal, Batala dismissing his application under Section 23 The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Learned counsel submits that the petitioner and his wife retired as Senior Lecturer and PCS officer, respectively, who faced atrocities at the hands of their son, namely, Rajandeep Singh and his wife, namely, Parwinder Kaur (respondent Nos.3 and 4, respectively), therefore, they brought an application dated 29.09.2017 before Sub Divisional Magistrate, Batala, District Gurdaspur and prayed for their eviction from the residential house occupied jointly by the parties. He submits that the son did not contest the claim, who got a statement recorded that he be allowed to reside in the house, with an undertaking that he would not commit any mistake with the parents and would live properly. He

submits that the statement of Parwinder Kaur was also recorded separately, wherein she stated that her husband is a drug addict, who is not maintaining her children and her case of maintenance, and residence is pending adjudication before the Court. Learned counsel has argued that once the senior citizen brought the claim against the son and daughter-in-law, the same ought to have been decided on merits, but the Tribunal vide order dated 25.07.2018 (Annexure P-5) refused to entertain the application of senior citizen on the ground that it is a case of domestic dispute, which is pending consideration before the Civil Court. He submits that the appellate Court has also erroneously affirmed the said decision vide order dated 13.06.2019 (Annexure P-7), therefore, interference by this Court is warranted.

The prayer is opposed by learned counsel for the respondent, who submits that since the rights of the respondent No.4 to reside in the house is independent, therefore, the Courts have rightly declined the claim of the senior citizens. He submits that the senior citizen connived with their son to file application under Maintenance Act against him, whereas in fact indirectly respondent No.3 is seeking eviction of respondent No.4. Learned counsel has further pointed out that the respondent No.4 has already availed her remedy in law by filing complaint under The Protection of Women from Domestic Violence Act, 2005 and the same is pending adjudication, and noticing this fact, the appellate authority vide its order dated 13.04.2019 refused to interfere with the decision dated 25.07.2018. He prays that the petition be dismissed.

During the course of hearing, learned counsel for the respondent stated that the senior citizen has also filed a petition seeking custody of their grand children, who are residing with respondent No.4, in her parental house

for the last one year.

Faced with the stand of learned counsel for the respondent, learned counsel for the petitioner states that for the time being, the grievance of the senior citizen no more exists and prays for withdrawal of the petition.

In view of the above, the petition is dismissed as not pressed, however, it is clarified that the proceedings initiated by respondent No.4 under The Protection of Women from Domestic Violence Act, 2005 shall be decided on its merits.

(MANOJ BAJAJ)
JUDGE

04.05.2023			
vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No