

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-19213-2023

Date of decision : 04.09.2023

Sucha Singh and another

... Petitioners

Versus

Sub Divisional Magistrate-cum-Maintenance Tribunal, Chandigarh and
another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kamal Chaudhary, Advocate for the petitioners.

Ms.Ruchi Sekhri, Addl.Standing Counsel with
Dr.Payal Mehta, Advocate for
respondent no.1-U.T. Chandigarh.

Mr.Amit Kaith, Advocate for respondent no.2.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 03.08.2023 (Annexure P-3) passed by respondent no.1 whereby both the petitioners have been ordered to be evicted from the house in question.

2. Learned counsel appearing for respondents no.1 and 2 has submitted that as per notification dated 29.11.2017, against the impugned order, an appeal lies before the District Magistrate. The relevant portion of the said notification is reproduced hereinbelow:-

*“No. SWI/Sr.Citizens Act/2017/7890**Dated: 29/11/17**In partial modification of the Chandigarh Administration Notification No. SWI/Sr. Citizens Act/Tribunals/2008/9752 dated 22.12.2008. the following is hereby added at the end of said notification:**The Administrator, UT. Chandigarh is further pleased to declare the Additional District Magistrate/Additional Deputy*

Commissioner, Union Territory Chandigarh as the Maintenance Tribunal who shall hear the cases under Sections 21, 22 & 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the District Magistrate as an Appellate Tribunal, who shall hear the appeals against the order passed under the aforesaid sections of the Act ibid.

DATED: 28:11.2017

SECRETARY SOCIAL WELFARE
WOMEN & CHILD DEVELOPMENT
CHANDIGARH ADMINISTRATION”

It is further submitted that in view of the law laid down by the Hon’ble Divison Bench of this Court in ***Paramjit Kumar Saroya Vs. Union of India and another***, reported as ***2016(3) RCR (Civil) 146***, it is open to any aggrieved person to file an appeal before the Appellate Tribunal which is District Magistrate in the present case.

3. Learned counsel for the petitioners has submitted that in view of the same, the petitioners be permitted to withdraw the present petition with liberty to file a statutory appeal, in accordance with law. It is prayed that in case the petitioners file an appeal within a period of two weeks from today, then the same be not dismissed solely on the ground of limitation.
4. Learned counsel for the respondents have submitted that they have no objection to the said course of action.
5. In view of the above, the present petition is dismissed as withdrawn with the aforesaid liberty. In case, the petitioners file a statutory appeal within a period of two weeks from today, then the appellate authority would not dismiss the same solely on the ground of limitation.

(VIKAS BAHL)
JUDGE

September 04, 2023.
Davinder Kumar