

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

\*\*\*

CWP-23380-2023

Date of decision : 16.10.2023

Manoj Kumar

... Petitioner

Versus

Sub Divisional Magistrate (Gurugram) and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Sukrant Vashisht, Advocate and  
Mr.Sanjeev Vashisht, Advocate  
for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana.

**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 of mandamus for setting aside the order dated 31.05.2023 (Annexure P-4) passed by the Sub Divisional Magistrate, Gurugram, functioning as Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. Learned State counsel has raised a preliminary objection in the present case that against the impugned order, an appeal would lie before the Appellate Tribunal and the said appeal would also be maintainable on behalf of the petitioner in view of the law laid down 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***.

3. Learned counsel for the petitioner has submitted that in view of the said objection, the petitioner be permitted to withdraw the present

petition with liberty to file a statutory appeal before the appellate authority and has prayed that since the petitioner was pursuing the present remedy, thus, in case the petitioner files an appeal before the appellate authority within a period of one month from today, the appellate authority be directed not to dismiss the same solely on the ground of limitation.

4. Keeping in view the above said facts and circumstances, the present petition is dismissed as withdrawn with liberty to file a statutory appeal before the appellate authority. In case the said appeal is filed within a period of one month from today, then the appellate authority is directed not to dismiss the same on the ground of limitation.

(VIKAS BAHL)  
JUDGE

October 16, 2023  
*Davinder Kumar*

|                             |        |
|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |