

CWP-25712-2023

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2023:PHHC:144953

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-25712-2023

Date of decision : 15.11.2023

Monika Khanna

... Petitioner

Versus

UT Chandigarh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Gaurav Vir Singh Behl, Advocate
for the petitioner.

Ms.Akansha Sahwney, Addl. Standing Counsel and
Ms.Shubreet Kaur, Jr. Panel Counsel
for respondent no.1-UT Chandigarh.

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 quashing the order dated 12.10.2023 (Annexure P-9) passed by respondent no.1 in a complaint/petition filed by respondents no.2 and 3 under Sections 21 and 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. Learned counsel for the petitioner has submitted that against the order dated 12.10.2023, an appeal along with an application for stay has been filed by the petitioner on 01.11.2023 before the Deputy Commissioner-cum-District Magistrate, U.T. Chandigarh exercising the powers of the Appellate Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It is further submitted that the said appeal has not been taken up for hearing and on the other hand, in all

likelihood the impugned order will be implemented on 16.11.2023 inasmuch as, as per the order dated 12.10.2023, the petitioner had to vacate the premises within 30 days from the dispatch of the said order and the dispatch of the order dated 12.10.2023 is shown to be on 16.10.2023 and thus, the said period would elapse on 15.11.2023. It is stated that the petitioner would limit her prayer in the present writ petition to a direction to the Appellate Tribunal to consider the stay application of the petitioner in a time bound manner and till the time the said application is not considered, status quo as regards possession be maintained.

3. Learned counsel appearing for the U. T. Chandigarh has submitted that the appeal of the petitioner is listed for 22.11.2023 and the said appeal would be taken up for preliminary hearing along with the application for stay on the said date or immediately thereafter.

4. Keeping in view the above said facts and circumstances, the present petition is disposed of with the following directions:-

i) The Deputy Commissioner-cum-District Magistrate, U.T. Chandigarh is directed to take up the appeal filed by the petitioner against the order dated 12.10.2023 on 22.11.2023 along with the application for stay for preliminary hearing and after considering the application for stay to pass an order on the said stay application till 24.11.2023.

ii) Till 24.11.2023, the parties are directed to maintain status quo as it exists today.

iii) The grant of present order of status quo should not be construed as an expression on the merits of the case and the Deputy Commissioner-cum-District Magistrate, U. T. Chandigarh would consider the application for stay independently, in accordance with

law, uninfluenced by the status quo order granted by this Court upto 24.11.2023. It would be open to the Deputy Commissioner-cum-District Magistrate, Chandigarh to reject the application for stay or grant stay after considering the merits of the case.

5. It is made clear that this Court has not opined on the merits of the case and the Deputy Commissioner-cum-District Magistrate, U.T. Chandigarh would decide the same independently, in accordance with law.

(VIKAS BAHL)
JUDGE

November 15, 2023.
Davinder Kumar

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