

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

(117)

**LPA-21-2023 (O&M)
Decided on : 09.01.2023**

Rakesh Kumar

.....Appellant(s)

Versus

Presiding Officer-cum-Addl. Deputy Commissioner and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE GURBIR SINGH**

Present: Mr. S.S. Momi, Advocate for the appellant(s).

G.S. Sandhawalia, J. (Oral)

CM-46-LPA-2023

Application for condonation of delay of 38 days is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 38 days in filing the appeal is condoned.

CM stands disposed of.

CM-47-LPA-2023

Exemption application is allowed, as prayed for.

CM stands disposed of.

LPA-21-2023 (O&M)

Challenge herein is to the interim orders passed by the learned Single Judge in the writ petition filed by respondent Nos.2 & 3 bearing **CWP No.23527 of 2022 ‘Amit Kharbanda and another Vs. Presiding Officer-cum-Addl. Deputy Commissioner and another’**.

Counsel has submitted that the eviction order in his favour dated 14.09.2022 (Annexure P-6) has been stayed by the learned Single Judge on 14.10.2022 qua the daughter who was petitioner No.2 in the writ petition on the ground that she was the owner of 1/3rd share of the house situated in Ambala Cantt in question and could not be ordered to be evicted from same. It is submitted that it is an *ex parte* order and, accordingly, an application was filed for vacation of the stay, in which notice has been issued to the opposite counsel for the date fixed i.e.

16.05.2023.

It is further submitted that pleadings have already been completed and the written statement has also been filed. It is submitted that the said writ petitioner was married in the year 2015 and was staying in her matrimonial home at Ambala City and has also entered into an agreement with her in-laws alongwith her husband dated 24.10.2020 (Annexure R-2/2). It is, accordingly, submitted that thereafter they started interfering in the peaceful possession of the appellant and resultantly, he had to leave the house and stay with his son, who stays in Zirakpur. It is further submitted that the son-in-law is a Court employee (Ahlmad) at Ambala. It is, thus, submitted that in such circumstances the appellant is in a great difficulty, as it is an attempt to grab the property of a senior citizen.

Keeping in view the above, since the pleadings are already complete, we are of the considered opinion that it would be appropriate for the learned Single Judge to adjudicate and decide the said issue including the application for vacation of stay, in which notice has been issued to the writ petitioners. Resultantly, we dispose off the present appeal by making a request to the learned Single Judge to decide the application for vacation of stay/main case, if possible, on the date which is already fixed i.e. 16.05.2023, in the peculiar facts and circumstances of the case.

Appeal is, accordingly, disposed of.

(G.S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
JUDGE

09.01.2023
Naveen

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No