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

CWP-27792-2023

Date of decision: 11.12.2023

Rajneesh Chaudhary and others

...Petitioners

Versus

Union Territory, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mansur Ali, Advocate for the petitioners.

Mr. Anil Sharma, Advocate for
Mr. Rakesh Sobti, Advocate for respondent Nos.1 to 3.

Mr. Anuj Raura, Advocate for respondent Nos.4 and 5.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for issuance of a writ, order or direction especially in the nature of certiorari for setting aside the order dated 03.11.2023 (Annexure P-9) passed by the District Magistrate-cum-Appellate Tribunal (Under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007), UT Chandigarh.

2. Learned counsel for the petitioners has submitted that against the order dated 18.09.2023 (Annexure P-2), the petitioners had filed statutory appeal and the said appeal is pending for consideration on

13.12.2023 but vide impugned order dated 03.11.2023 (Annexure P-9), the Appellate Tribunal has rejected the stay application and, the petitioners have no other remedy as, in case, the possession is taken from the petitioners before the main appeal is decided, the appeal filed by the petitioners would become infructuous and their further right to agitate the matter would also stand infringed.

3. Learned counsel for respondent Nos.4 and 5 has fairly submitted that respondent Nos.4 and 5 are ready to fully argue the appeal and would assist the Appellate Authority in finally adjudicating the matter by making the submissions on 13.12.2023 and also submits that they have no objection in case the main appeal is decided expeditiously within a period of two weeks from today. It is also submitted that till the time the said appeal is decided, they would not seek execution of the order dated 18.09.2023 (Annexure P-2). It is however prayed that the said concession should not be construed as an estoppel against respondent Nos.4 and 5 to agitate the matter on merits and to seek execution of the order in case the appeal of the petitioners is rejected.

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

- i) The Appellate Authority-respondent No.2 is directed to decide the appeal No.35 of 2023 which is stated to be listed for 13.12.2023 within a period of two weeks from today.
- ii) Learned counsel appearing on behalf of the petitioners as well as on behalf of respondent Nos.4 and 5 would not seek

any adjournment and would assist the Appellate Authority in final adjudication of the matter within the aforesaid period.

- iii) As has been fairly stated by learned counsel for respondent Nos.4 and 5, till the decision of the said appeal, the execution of order dated 18.09.2023 will not be sought by them. The said fair statement would not be construed as an estoppel against respondent Nos.4 and 5 from opposing the appeal on merits and for pursuing their legal rights after final adjudication of the appeal No.35 of 2023.

5. It is made clear that this Court has not opined on the merits of the case and the Appellate Authority-respondent No.2 would consider and decide the case independently, in accordance with law after hearing both the parties within a period of two weeks from today.

11.12.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No