

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10865 of 2024

1. Anand Kishor Son of Rambilash Gupta Resident of Mohalla Anathalaya Road, Ward No 21, P.S. Katihar (Town), Distt. Katihar.
2. Reena Anand Wife of Anand Kishore, Resident of Mohalla Anathalaya Road, Ward No 21, P.S. Katihar (Town), Distt. Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector cum District Magistrate, Katihar.
2. The Sub Divisional Magistrate, Katihar.
3. Rambilash Gupta Son of Late Mahavir Gupta, Resident of Mohs Anathalaya Road, Ward No 21, Distt. Katihar.
4. Renuka Gupta, Wife of Rambilash Gupta, Resident of Moha Anathalaya Road, Ward No 21, Distt. Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Deepak Kumar, Adv.
For the Respondent/s	:	Mr.Standing Counsel (23)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-08-2024

1. The present writ petition has been filed for quashing the entire proceedings of Case No.9 of 2023, initiated by the Sub-Divisional Magistrate, Katihar, under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as ‘the Act, 2007’), as also the order dated 24.06.2023, passed by the Sub-Divisional Magistrate, Katihar, in the said case.

2. At the inception, a question has arisen as to whether the present writ petition is maintainable in its present form, in view of availability of alternative remedy to the petitioners



inasmuch as the aforesaid order dated 24.06.2023, passed by the Sub-Divisional Magistrate, Katihar, can be challenged by the petitioners, by filing an Appeal under Section 16 of the Act, 2007. The Learned Counsel for the petitioners submits that looking at the language of Section 16 (1) of the Act, 2007, it is questionable as to whether an Appeal, at the behest of the petitioners, who are the son and daughter-in-law of the senior citizen i.e. the private respondents No. 3 and 4, would be maintainable.

3. This Court finds that Section 15 of the Act, 2007 provides for constitution of an Appellate Tribunal for each district to hear the appeal against the order of the Tribunal, however, the same nowhere mentions that the appeal against the order of the Tribunal is confined to a senior citizen or a parent and moreover, the right to file an appeal is also not excluded, specifically by the provisions contained in Section 16(1) of the Act, 2007. In fact, there is no negative provision in the Act, 2007, denying the right of appeal to the other parties, whereas the provisions of the Act, 2007 would show that on the contrary, an appeal from both sides is envisaged.

4. This Court finds that the aforesaid issue is no longer res integra, inasmuch as the same has stood decided by a



learned Division Bench of the Hon'ble Punjab and Haryana High Court, by a judgment, rendered in the case of ***Paramjit Kumar Saroya vs. The Union of India & Another***, reported in ***2014 SCC Online P & H 10864***. This aspect of the matter has also been considered by a learned Single Judge of the Hon'ble High Court of Karnataka in a judgment dated 20.07.2021, passed in the case of ***Smt. M. Sunitha vs. Smt. M.Sashikala Mugadura & Anr.*** [Writ Petition No. 147056 of 2020 (GM-RES)].

5. The aforesaid aspect of the mater has also been decided conclusively in a judgment rendered by the learned Single Judge of the High Court of Delhi at New Delhi, in the case of ***Rakhi Sharma vs. The State & Others***, reported in ***2021 SCC Online Del 1327***.

6. In fact, this Court, by a judgment dated 22.08.2023, passed in C.W.J.C. No.11720 of 2023 (***Pankaj Agrawal and Another vs. The State of Bihar and Others***), has also held as follows:-

“Considering the interpretation of Section 16 (1) of the Act, 2007, as made in the abovementioned Judgments, rendered by various High Courts, this Court is also of the



opinion that the only legal and correct interpretation of Section 16 (1) read with the other provisions of the Act, 2007, is that the right of appeal, under Section 16(1) of the Act, 2007 is conferred on both sides i.e., an appeal can be filed by any of the affected parties.

Having regard to the facts and circumstances of the case as also taking into account the position, as is existing in law, i.e. the petitioners have an alternative remedy by way of preferring an appeal under Section 16 of the Act, 2007, against the order dated 24.06.2023, passed by the Respondent No. 3, I deem it fit and proper to grant liberty to the petitioners to file appropriate appeal before the Appellate Authority under Section 16 of the Act, 2007, challenging the aforesaid order dated 24.6.2023, passed by the Respondent No. 3.”

7. In view of the aforesaid, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to file appropriate appeal before the Appellate Authority under Section 16 of the Act, 2007, challenging the aforesaid order dated



24.06.2023, passed by the Sub-Divisional Magistrate, Katihar.
Liberty so sought is granted.

8. The present writ petition stands disposed off on the
aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.08.2024
Transmission Date	NA

