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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1874-2024 (O&M)
Date of decision: 30.01.2024

Ranjeiven Kaur Randhawa

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

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VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for setting aside the order dated 28.04.2022 passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Amritsar-I (Annexure P-3) and order dated 05.07.2023 passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Amritsar-I, Amritsar (Annexure P-6).

2. Learned counsel for the petitioner has submitted that an application was filed by the senior citizen on 24.03.2022 showing Gurpreet Singh Randhawa as respondent whereas the said Gurpreet Singh Randhawa had died on 29.09.2021 prior to the date on which the said application was filed.

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3. Learned State Counsel has submitted that there is an alternative remedy of appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as “2007 Act”) against the impugned order and has further submitted that in view of the judgment passed 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***, the petitioner would also fall within the definition of aggrieved person so as to institute the said appeal.

4. Learned counsel for the petitioner has submitted that in view of the said objection raised by learned State Counsel, he be permitted to withdraw the present writ petition with liberty to the petitioner to file an appeal against the impugned order and has submitted that since, the petitioner was pursuing the wrong remedy before the Maintenance Tribunal in the first instance and the present writ petition thus, in case the petitioner files an appeal within a period of one month from today, the Appellate Tribunal be directed not to dismiss the same solely on the ground of limitation. It is further submitted that the petitioner be also permitted to move an application for stay along with said appeal which may also be considered at the time of preliminary hearing.

5. Keeping in view the abovesaid facts and circumstances, the present writ petition is dismissed as withdrawn with liberty to the petitioner to file statutory appeal under Section 16 of 2007 Act and in case the said appeal is filed within a period of one month from today, then the Appellate Tribunal would not dismiss the same solely on the ground of limitation. It would be open to the petitioner to move an application for stay along with

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appeal and the Appellate Tribunal is directed to consider the said application for stay if so filed along with appeal as expeditiously as possible and pass appropriate orders on the same.

6. It is made clear that this Court has not opined on the merits of the case and the Appellate Tribunal would consider the application for stay as well as the main case of the petitioner independently, in accordance with law.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

30.01.2024 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**

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