



**103+215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-18306-CWP-2024 in/and
CWP No.19414 of 2023
Date of Decision : 14-01-2025**

JAGGA SINGH AND ANOTHER

.....Petitioner(s)

VERSUS

THE DISTRICT MAGISTRATE PATIALA AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Duhan, Advocate
for the petitioners.

Mr. T.P.S Chawla, Sr. DAG Punjab.

Mr. Vikas Mehsempuri, Advocate
For respondent Nos.2 and 3.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-18306-CWP-2024

1. This is an application for placing on record statement dated 17.05.2024 of petitioner No.2 before CJM, Patiala in the complaint under Section 12(1), 18 to 22 of the Protection of Women from Domestic Violence Act, 2005 as Annexure R-4.

2. Keeping in view the contents mentioned in the application, the same is allowed. Statement dated 17.05.2024 of petitioner No.2 before CJM, Patiala in the complaint under Section 12(1), 18 to 22 of the Protection of Women from Domestic Violence Act, 2005 as Annexure R-4 is taken on record subject to all just exceptions.

CWP No.19414 of 2023

1. In the present petition, the parents, who filed a claim under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 2007 Act) have approached this Court stating that the Tribunal dismissed their claim in default as no one appeared on their behalf and under the wrong advice, rather than filing an application for restoration, an appeal has been filed after the expiry of limitation period and that the appeal has also been dismissed by the appellate authority on the ground of delay.

2. Learned counsel for the petitioners submits that as the 2007 Act is basically for the welfare of the senior citizens, their claim cannot be denied without their being an appropriate adjudication of the same on merits especially when, the senior citizens are not at fault.

3. Learned counsel appearing on behalf of the private respondents submits that the petitioners chose the method to assail the order of dismissal of their claim by the Tribunal in default by filing an appeal and that too after the expiry of the limitation for which, the private respondents cannot be blamed and the authorities which have passed the order, is in accordance with law as, no illegality has been pointed out in the orders impugned before this Court.

4. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

5. Once, the claim has been raised under the 2007 Act by the Senior Citizens, the Tribunal should make all the efforts to decide the same on merits. In the present case, the petitioners have engaged the lawyer, who unfortunately did not appear and the claim was dismissed for non-

prosecution and under the wrong advice, the appeal was preferred after the limitation rather than filing an application for restoration of the said claim.

6. Keeping in view the facts and circumstances of the present case where, even as of now, the Senior Citizens are interested in pursuing their claim, the order passed by the authorities are set aside. The Tribunal is directed to adjudicate the claim on merits by giving due opportunity of hearing to both the parties.

7. Present petition is disposed of in above terms.

8. It is made clear that this Court is not making any opinion or decision upon the entitlement or otherwise of the petitioners as the same will be decided by the Tribunal keeping in view the pleadings of the parties and the evidence, which will come on record.

9. The parties are directed to appear before the Tribunal on 14.02.2025.

14-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO