

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 18838 of 2016

Date of Decision: 30.9.2016

Jaswant Singh and others

.....Petitioners

Vs.

District Magistrate Bathinda and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Kanwaljeet Singh Brar, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned appellate order dated 9.11.2015 (Annexure P-4), passed by the Appellate Tribunal, whereby appeal of the petitioners was dismissed and the order dated 30.7.2015 (Annexure P-2), passed by the Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('Act of 2007' for short), was upheld, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioners.

It is not in dispute that Sh. Jagjeet Singh, was the absolute owner of the property in question. He transferred the disputed property in favour of the petitioners with the hope and trust that he will be properly

maintained by the petitioners. However, Sh. Jagjeet Singh felt himself defrauded at the hands of the petitioners. Petitioner No.1 is son of Sh. Jagjeet Singh and petitioners No. 2 to 4 are sons of petitioner No.1. Under the unwarranted situation created at the hands of the petitioners, Sh. Jagjeet Singh was left with no other option, except to file appropriate petition under the Act of 2007.

Learned Tribunal issued notice to the petitioners and after granting due opportunity of being heard to the parties, impugned order dated 30.7.2015 (Annexure P-2) was passed, declaring transfer deeds No. 279 and 280 dated 6.5.2015 as void. Since the property was ordered to be re-transferred in the name of the original owner namely Sh. Jagjeet Singh, petitioners felt aggrieved and filed their appeal against the impugned order dated 30.7.2015 (Annexure P-2), which also came to be dismissed by the Appellate Tribunal, vide order dated 9.11.2015 (Annexure P-4). Hence this writ petition.

After hearing learned counsel for the petitioners at considerable length, giving thoughtful consideration to the contentions raised and careful perusal of record of the case, this Court is of the considered opinion that since both the impugned orders are factually correct and legally justified, present writ petition is without any merit and it is liable to be dismissed, for the following more than one reasons.

A bare combined reading of the both the impugned orders would show that learned first Tribunal as well as Appellate Tribunal proceeded on a factually correct and legally justified approach, while passing the impugned orders. As noticed hereinabove, facts were hardly in dispute. Ownership of Sh. Jagjeet Singh had never been in dispute. He

transferred the property in the name of the petitioners vide abovesaid transfer deeds. However, having been compelled by the conduct of the petitioners, Sh. Jagjeet Singh was left with no other option except to approach the learned Tribunal, by moving appropriate petition for setting aside the transfer deed Nos. 279 and 280 of even date i.e. 6.5.2015.

It is neither pleaded nor argued case on behalf of the petitioners that they were not granted due opportunity of being heard and defending themselves. The only and that too a technical argument raised by learned counsel for the petitioners is that learned Tribunals did not follow the procedure laid down under Section 23 of the Act of 2007. Except this technical plea, learned counsel for the petitioners has nothing to argue on the merits of the case.

It is the settled proposition of law that with a view to do complete and substantial justice, technicalities must not weigh with the courts. Ownership of Sh. Jagjeet Singh was not in dispute. Transfer of the said property owned by Sh. Jagjeet Singh was also a matter of record. Owing to the objects and reasons of the Act of 2007 and with a view to achieve the laudable object of this piece of legislation, the technical plea raised by learned counsel for the petitioners has been found wholly misplaced.

It is so said, because condition in the transfer deed can very well be a orally and mutually settled condition between the parties, which was not honoured by the petitioners at the later point of time. In fact, from bare perusal of the record of the case, it becomes crystal clear that after getting the property transferred in favour of the petitioners, there was no change in the circumstances except intentions of the petitioners. Petitioners proved themselves to be totally ungrateful and they must suffer for it.

During the course of hearing, learned counsel for the petitioners has pointed out that the impugned orders have already been executed and thereafter, original owner Sh. Jagjeet Singh has already transferred the land in favour of his other sons. Said transfer deed is not even under challenge before this Court. So far as the impugned orders are concerned, none of them have been found suffering from any patent illegality or perversity, thus, the same deserve to be upheld, for the reasons also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

30.9.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No