

Sr. No. 116

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

**CWP No. 25484 of 2016(O&M)
Date of decision: 09.12.2016**

Gurdit Singh

.....Petitioner

versus

**District Magistrate cum Deputy Commissioner, Amritsar and others
.....Respondents**

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

**Present: Mr. Sharad Mehra, Advocate
for the petitioner.**

Rakesh Kumar Jain, J.(Oral)

The petitioner is basically praying for execution of order dated 13.11.2014(Annexure P-5) passed by the Deputy Commissioner, Amritsar by which maintenance of ₹ 3500/- has been fixed for the petitioner and his deceased wife under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007(for short, 'the Act').

The question that arises for consideration is *as to whether the petitioner has the remedy under the Statute?* Section 11 of the Act provides further procedure for enforcement of order of maintenance. Section 11 is reproduced as under:-

(1) A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or

as the case may be, expenses due.

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973(2 of 1974) and shall be executed in the manner prescribed for the execution of such order by that Code.”

In view of Section 11(2) of the Act, the petitioner has to enforce the order in terms of the provisions contained in Chapter IX of the Code of Criminal Procedure, 1973 and thus, the present petition is not maintainable in its present form. With these observations, the present petition is hereby ***disposed of*** as not maintainable relegating the petitioner to avail his remedy of Section 11(2) of the Act.

Counsel for the petitioner has also prayed that the application filed on 4.09.2014(Annexure P-8) under Section 23 of the Act for cancellation of the sale deed dated 3.10.2008 executed by his wife Surinder Kaur(since deceased) in favour of respondent No. 3 Taranjit Singh is not being entertained by the Deputy Commissioner.

I have heard learned counsel for the petitioner in this regard also. No remedy lies before the Deputy Commissioner/SDM as the remedy lies before the Tribunal. The *petitioner may if so advised*, file the application under Section 23 of the Act before the Tribunal.

[Rakesh Kumar Jain]
Judge

9th December, 2016

Shivani Kaushik

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No