

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.14750 of 2016 (O&M)
Date of decision: August 10, 2017

Santokh Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.S. Chatrath, Advocate for the petitioner.

Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

None for respondent No.3.

Rajan Gupta, J.

The petitioner has posed a challenge to order dated 31.03.2016, passed by the authority under the Act, whereby it has cancelled the transfer-deed dated 23.7.1997, executed in his favour by her mother Pritam Kaur, with a further direction that the concerned Tehsildar would change the mutation accordingly. An application was filed by Pritam Kaur stating that she was 82 years old illiterate lady. She had four sons. Her husband died on 9.11.1982. He owned 560 Kanals of land situated in different villages. Out of this, four shares devolved on her sons and 5th on her. Santokh Singh (petitioner herein) had evil eye on land which fell to the share of the applicant. He prepared a sale deed and fraudulently got signatures of the applicant on it. She never executed any sale deed in favour of her son of her own free will. She came to know about the fraud when her son Jagdev Singh came from abroad and checked the revenue record. The authority issued notice to petitioner Santokh Singh. He filed his reply and submitted

that applicant executed the sale deed in her full senses. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is not applicable to the facts of the instant case. Thus, application needed to be dismissed. After hearing both the parties, the authority allowed the application and directed cancellation of sale deed. Operative part of the order reads as follows:-

“After hearing the arguments of both the parties I am of the opinion that petitioner Pritam Kaur is an old aged lady and is aged 82 years. She does not have any source of income. She only had the property left behind by her husband which was got transferred to his name by her son Respondent Santokh Singh. Hence the transfer deed dated 23.07.1997 executed by Pritam Kaur in favour of her son is cancelled and mutation of the same is also cancelled. Copy of this be sent to Tehsildar II, Jalandhar and he is directed to mutation be changed to the name of Pritam Kaur and same be filed. The file be consigned to record room after due compliance.”

It has been urged on behalf of the petitioner that aforesaid order has been passed in a mechanical manner without application of judicious mind. The Act in question is not applicable to the instant case. The authority below had no jurisdiction to decide the matter. Though respondent No.3 remains unrepresented, State counsel has addressed the court.

It is evident that after death of husband of respondent No.3, petitioner Santokh Singh got 1/5th of the share out of 560 Kanals of land owned by the deceased. It appears that he still had greed to grab share of her mother. Applicant, thus, invoked the provisions of the Act to safeguard

her interest. In my considered view, the authority below has rightly exercised its jurisdiction in cancelling the transfer-deed and consequent mutation. There is nothing to show that the authority had no jurisdiction to adjudicate upon the issue. In my considered view, the authority has acted in a manner as to achieve the objective of the special enactment. Only effort of the petitioner appears to be to deprive his own mother of her 1/5th share of the property left by her husband. Being old and infirm, she may not be having any other means of livelihood. Under these circumstances, this petition is without any merit and is hereby dismissed. The authority shall take immediate measures for executing the order passed by it. A report be also submitted within one month.

(RAJAN GUPTA)
JUDGE

August 10, 2017
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No