

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

CWP No. 14186 of 2017

Date of decision : 30.11.2017

Dhian Singh

...Petitioner

V/s

Deputy Commissioner cum Appellate Tribunal, Pathankot & ors.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

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

Mr. Vikas Mohan Gupta, Addl. A.G. Punjab.

Mr. R.S. Chauhan, Advocate for respondents no. 3 & 4.

RAJAN GUPTA J.

Petitioner has impugned order dated 02.03.2017 passed by the
Tribunal at Pathankot. Operative part of the order reads as under:-

“5. I have considered the points raised by the appellate in his appeal. The order passed by the court below has also been considered and respondent Rachhpal Singh was also heard. The relevant section 23(I) of the concerned Act regarding cancellation of the Salke Deed is as under:-

“Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basis amenities and basis physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal ”

6. *It is mentioned in the aforesaid section that it is mandatory to insert condition in the documents in order to get back the land or property but i the present case after examining the sale deed dated 28.4.2007 that no such condition was inserted. The court below has ordered to pay monthly expenses of Rs. 4000/- to the appellant. The appellant has not put any such condition in the sale deed regarding getting back his land so this sale deed cannot be cancelled. In view the circumstances explained above there is no necessity to interfere in the order passed by the court below and this appeal is hereby rejected. A copy of this order along with the record of the received from the court below be sent to the concerned court and appeal file of this court be completed in all respects and consigned to the record room for record.”*

Learned counsel for the petitioner submits that petitioner sought cancellation of sale-deed dated 30.08.2007 executed in favour of his son Rachhpal Singh (respondent no. 3 herein). According to him, tribunal awarded Rs. 4,000/- as maintenance per month without giving any findings on the prayer made in the application. He further submits that matter needs to be remitted to same authority for decision afresh as per law. This prayer is not opposed by learned counsel representing the respondents.

In view of above, impugned order is hereby set-aside. Matter is remitted to same authority for decision afresh as per law after affording opportunity of hearing to both the parties. It shall endeavor to decide the matter expeditiously, in any case not later than four months.

Disposed of.

November 30, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No