

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.14871 of 2017 (O&M)
Date of decision: September 07, 2017

Joginder Singh

...Petitioner

Versus

District Collector, Kapurthala-cum-Appellate
Tribunal & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vivek K. Thakur, Advocate for the petitioners.

Rajan Gupta, J.

Petitioner has impugned orders dated 21.12.2015 (Annexure P-5), passed by Sub Divisional Magistrate-cum-Maintenance Tribunal, Sultanpur Lodhi and order dated 01.09.2016 (Annexure P-9), passed by the Appellate Tribunal (District Collector), Kapurthala, directing petitioner Joginder Singh and his brother Satnam Singh to pay Rs.3500/- per month each to their widowed mother i.e. respondent No.3.

Learned counsel for the petitioner has primarily urged before this court that order suffers from patent illegality. The Tribunal without affording opportunity of hearing to the petitioner, allowed the application filed by respondent No.3, who is his mother. According to him, the applicant/ respondent No.3 is living with her another son Satnam Singh. He submits that father of petitioner before his death had executed a Will bequeathing his properties in favour of respondent No.3 as well as petitioner and disinheriting his other son Satnam Singh. Petitioner met with an accident and therefore, he is unable to pay maintenance to his mother.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondent No.3 is 82 years old widowed lady. Her

husband late Shri Sucha Singh had left a Will dated 1.7.2002 regarding his properties in favour of applicant/respondent No.3 and the petitioner, on the basis of which mutation was also sanctioned in their favour. Petitioner used to cultivate the entire land and turned his mother out of the house and refused to maintain her. Since, applicant had no source of income, she filed an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for grant of maintenance before the authority. After considering the entire issue and examining the documents, Sub Divisional Magistrate-cum-Maintenance Tribunal, Sultanpur Lodhi, directed both sons of respondent No.3 to pay Rs.3500/- each per month to their mother. Aggrieved, petitioner preferred appeal, which was dismissed by the Appellate Tribunal (District Collector), Kapurthala on 01.09.2016.

I find no infirmity with the orders passed by the authorities below. It reveals that petitioner after getting the properties of his father, turned his mother out of the house and refused to maintain her, who is quite old and has no source of income. Both the sons are legally bound to maintain their mother. Keeping in view her age, she cannot be expected to cultivate the land. The authorities below have acted in accordance with the provisions of special enactment. There is no ground to interfere in the writ jurisdiction. Petition is without any merit and is hereby dismissed.

September 07, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No