

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : 21.08.2017

(1) CWP No. 16729 of 2017

Surjit Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

(2) CWP No. 18139 of 2017

Harvinder Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Randhawa, Advocate for the petitioner
in CWP No. 16729 of 2017.
Mr. Gurveer Sidhu, Advocate for the petitioner
in CWP No. 18139 of 2017.

RAJAN GUPTA J.

This order will dispose of two petitions filed by the petitioner(s) impugning the orders passed by the authority under the Maintenance and Welfare of Parents and Senior Citizens Act whereby transfer made by respondent no. 5 in favour of Harwinder Singh has been cancelled. Brief factual background of the case is that Jagjit Kaur, a widow, moved an application before the Tribunal at Patiala seeking cancellation of transfer of a house (Kothi No. 84 C, Model Town, Patiala) in favour of her nephew Harwinder Singh on the ground that he was harassing her. She alleged that

Her husband Dr. Surjit Singh had constructed the house in question and same

was registered in his name. She had transferred the said house which measures 625 Sq. yards in favour of her nephew with the expectation that he would look after her during her old age. All documents were, thus handed over to Harwinder Singh. It appears that on 31.07.2016, Harwinder Singh entered into an agreement to sell the house in question to Surjit Singh (petitioner in CWP No. 16729 of 2017) for a total sale consideration of ₹1,35,00,000/-. Shortly thereafter, Surjit Singh filed a suit in the court of Civil Judge, (Senior Division), Patiala seeking specific performance in terms of the agreement. Both Harwinder Singh as well as subsequent vendee Surjit Singh have impugned the order passed by the Tribunal at Patiala on the ground that the order is arbitrary. A suit for specific performance is already pending before the civil court. The rights of subsequent vendee have come into existence, thus, impugned order needs to be set-aside. Reliance is placed on judgment reported as *Jagmeet Kaur Pannu vs. Ranjit Kaur Pannu 2016(2) RCR (Civil) 82*.

I have heard counsel for the petitioner(s) and given careful thought to the facts of the case. It is evident that property in question was self acquired property of husband of the applicant-respondent no. 4. She is 87 years old widow. She alleges that after she transferred the property in name of Harwinder Singh, he started harassing her. She, thus invoked the jurisdiction of the Tribunal under the special enactment. The application was filed on 10.04.2017. The Tribunal passed the order on 13.07.2017. Immediately thereafter, i.e. on 21.07.2017 Surjit Singh also filed a suit for specific performance against Harwinder Singh seeking execution of agreement to sell dated 31.07.2016. The quick succession in which

proceedings have taken place leave no room for doubt in the mind of this court that Harwinder Singh and Surjit Singh are hand in glove with each other. Their effort is to deprive a 87 year old widow of the only house left by her husband. The order passed by the Tribunal has been challenged not only by Harwinder Singh but the subsequent vendee who was not a party before the Tribunal and no right or title qua the property vests in him. It is to guard against such situations that the special enactment was brought by the legislature. Section 27 thereof provides that pendency of civil suit would have no bearing on proceedings under the Act. Besides, it is clear that Harwinder Singh entered into agreement to sell with Surjit Singh immediately after the tribunal decided the case in favour of his aunt Jagjit Kaur. Surjit Singh thereafter, preferred the instant suit against Harwinder Singh. Both appear to have acted in connivance with each other. Judgment in *Jagmeet Kaur Pannu's* case (supra) is not applicable to the facts of the instant case. Both the petitions are dismissed being without any merit.

August 21, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No