

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.12240 of 2018
Date of Decision:07.09.2018

Dalip Singh

..... Petitioner

Vs.

Deputy Commissioner-cum-District Tribunal and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Ms.Guneet Babbar, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order of the Maintenance Tribunal, Jalalabad dated 31.5.2017 by which the application filed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short 'the Act'] by the mother of the petitioner has been allowed and the order of the Appellate Maintenance Tribunal dated 26.9.2017 by which the appeal filed by the petitioner against the order dated 31.5.2017 was dismissed.

In brief, respondent No.3 executed a transfer deed dated 9.12.2011 of land measuring 1 kanal 1 marla bearing Vasika No.2869, falling in Murba No.18, Kila No.17/1/2/2, situated at village Peereke Uttar Tehsil Jalalabad. It was specifically mentioned therein that there has been no monetary transaction in the transfer. The petitioner had allegedly thrown respondent No.3 out of his house who has started living with her daughter. He was allegedly not provided food, cloth, medicine etc., therefore, respondent No.3 filed the application under Section 23 of the of the Act

seeking cancellation of transfer deed i.e. Vasika No.2869 dated 9.12.2011 and for grant of maintenance of ₹10,000/- per month. The petitioner was summoned by the Maintenance Tribunal. He appeared only on 11.1.2017 but did not appear thereafter and was thus proceeded against *ex parte*. The Maintenance Tribunal, keeping in view the facts and circumstances, as projected by respondent No.3, not only passed the order annulling the transfer deed but also ordered the petitioner to pay ₹5000/- per month towards maintenance w.e.f. October 2016 for the whole life. The said order was challenged by way of an appeal by the petitioner in which he did not mention anything about the amount alleged to have been paid to respondent No.3 in lieu of the transfer of the property except that he had purchased the land in question. The appeal was dismissed by the impugned order dated 26.9.2017 and hence, the present petition has been filed.

Learned counsel for the petitioner has submitted that the petitioner had purchased the land in question for an amount of ₹1,56,000/- @ ₹12,000/- per marla. He had paid ₹1 lakh in cash to respondent No.3 and her husband and gave a cheque of the remaining amount. It is further submitted that his father Sajjan Singh had filed a criminal case against him titled as Sajjan Singh Vs. Dalip Singh under Section 138 of the Negotiable Instruments Act, 1881 in respect of an amount of ₹50,000/-. He has also referred to an affidavit purported to have been sworn by respondent No.3 and her husband on 19.5.2015 as per which they had received ₹1 lakh in cash and would receive ₹56,000/- till 31.3.2016. It is thus submitted that the property in question has been purchased.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no merit in

otherwise than a registered instrument/registered sale deed if the value is more than ₹100/-. In the transfer deed dated 9.12.2011, it is specifically mentioned that there has been no monetary transaction at all between the parties which means that the said property was transferred by respondent No.3 in favour of the petitioner out of their relations. The petitioner did not choose to appear before the Tribunal for the reasons best known to him as he had appeared only once on 11.1.2017 and thereafter stopped appearing, thus the Maintenance Tribunal had to pass an *ex parte* order against him. No evidence has been brought on record by the petitioner either before the Maintenance Tribunal or before the Appellate Maintenance Tribunal because even in the grounds of appeal filed by the petitioner before the Appellate Tribunal, he has not said a word as to how much amount he has paid to respondent No.3 towards the transfer deed dated 9.12.2011 except a bald averment that he had purchased the land in question. The petitioner has not brought on record before the Appellate Maintenance Tribunal any evidence to show that he had purchased the land in question or had paid money at the time of transfer of the property in his favour by his mother/respondent No.3.

Thus, in the absence of any evidence to prove the transfer of the property for a valuable consideration, I am not inclined to accept the bald statement of the petitioner to set aside the well considered orders passed by the Maintenance Tribunal and Appellate Maintenance Tribunal.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

07.09.2018

Vivek

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No