

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18484 of 2016
Date of Decision:05.07.2018

Lakhvir Ram

. Petitioner

Vs.

The Addl. Deputy Commissioner-cum-Appellate Tribunal, SBS Nagar and
others

. Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Sarju Puri, Advocate,
for the petitioner.

Mr.Sahil Sharma, DAG, Punjab.

Mr.S.S. Dhaliwal, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 12.10.2015 passed by the Maintenance Tribunal, Balachaur, District SBS Nagar and the order dated 26.04.2016 passed by the Maintenance Appellate Tribunal, SBS Nagar by which the petitioner, who happened to be the son-in-law of respondent No.3, has been saddled with the liability to pay maintenance to him in terms of the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short 'the Act'].

Learned counsel for the petitioner has raised a substantial question of law that whether a son-in-law is liable to pay maintenance to his father-in-law?

Learned counsel for the petitioner has submitted that though in view of a compromise the petitioner has already paid ₹4 lakhs to respondent

No.3 but being the son-in-law he would neither fall within the definition of 'children', relative' and respondent No.3 would also not fall within the definition of 'parent'. It is submitted that the Act is divided into 7 chapters in which Chapter II deals with the 'Maintenance of Parents and Senior Citizens'. Section 5 of the Act deals with the 'Application for maintenance' which says that an application under Section 4 of the Act for maintenance may be made by a senior citizen or a parent if he is incapable or by any other person or organization authorized by him or the Tribunal may take *suo motu* cognizance. It is further submitted that as per Section 4 of the Act, senior citizen including parent, who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under Section 5 of the Act being a parent or grand-parent against one or more of his children, who may not be a minor or a childless senior citizen against his relative. If such an application is filed, it has to be dealt with by the Tribunal constituted under Section 7 of the Act and in terms of the procedure prescribed in Section 5 of the Act. It is submitted that the Tribunal as well as the Appellate Tribunal have committed a patent error of law in deciding that the son-in-law is liable to pay maintenance to the tune of ₹2,000 per month to respondent No.3. It is however, submitted that the petitioner would not ask for the recovery of ₹4 lakh which had already paid to respondent No.3 in view of a compromise entered into between the parties before the Tribunal but it is submitted that the petitioner otherwise is not liable to pay any kind of maintenance to his father-in-law.

Learned counsel for the respondents has submitted that there is no error in the impugned orders because the petitioner himself had paid ₹4

lakhs to his father-in-law, therefore, he has admitted his liability to maintain him.

I have heard learned counsel for the parties and perused the available record with their able assistance.

The objects and reasons for which the Act was enacted was that due to withering of the joint family system, a large number of elderly people are not being looked after by their family and as a result thereof, many old persons, particularly widowed women are forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. The Parliament thus brought this Act in which provisions have been made for the maintenance as well as welfare of the parents and senior citizens. In order to remove any kind of doubt about the terms which are repeatedly used in this Act, the definitions are provided in Section 2 of the Act. In regard to the present case, the definition of ‘children’, ‘maintenance’, ‘parent’, ‘relative’ and ‘senior citizens’ are relevant and are reproduced as under: -

“Children” includes son, daughter, grandson and grand-daughter but does not include a minor.”

“Maintenance” includes provision for food, clothing, residence and medical attendance and treatment.”

“Parent” means father or mother whether biological, adoptive or step father or step

mother, as the case may be, whether or not the father or the mother is a senior citizen.”

“Relative” means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death.”

“Senior Citizen” means any person being a citizen of India, who has attained the age of sixty years or above.”

As I have already observed that the Act is divided into two parts, firstly in regard to the maintenance of parents and senior citizens and secondly with regard to their welfare for which provisions are made in Chapter III to V of the Act. Chapter III of the Act deals with the ‘Establishment of Oldage Homes’, Chapter IV of the Act deals with the ‘Provisions for Medical Care of Senior Citizen’ and Chapter V of the Act deals with the “Protection of Life and Property of Senior Citizen”. As per the definitions, the ‘parent’ may be a senior citizen whereas a ‘senior citizen’ should be a person of 60 years or above. The ‘children’ would include son, daughter, grandson and grand-daughter but not a minor. The ‘relative’ would mean any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit the property of the senior citizen after his death. Thus, there is no reference of a son-in-law either in the definition of ‘children’ or in the definition of ‘relative’. In case the definition of ‘relative’ is expanded even then the son-in-law would not fall within its parameters because the Legislature has provided the definition of

‘relative’ to mean that any legal heir of the childless senior citizen who is not a minor and is in possession of or is likely to inherit his property after his death.

In the present case, respondent No.3 is not a childless senior citizen because he had two sons against whom also the Tribunal has passed the award of maintenance. The petitioner is not covered either in the definition of ‘children’ or ‘relative’. In this regard, the judgment of this Court relied upon by learned counsel for the petitioner rendered in the case of “*Balbir Kaur Vs. Presiding Officer-cum-S.D.M. of the Maintenance & Welfare of Senior Citizen Tribunal, Pehowa, District Kurukshetra and others*” 2015(3) PLR 688 would also be relevant in which the maintenance was awarded against the daughter-in-law and this Court has held that she would not fall within the definition of either ‘children’ or ‘relative’ nor the father in that case would fall within the definition of ‘parent’. Similarly in this case also, the definition of ‘parent’ as provided in Section 2(d) of the Act says that it would mean father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen. It does not talk of father-in-law for the purpose of definition of the ‘parent’.

Looking from any angle, the son-in-law would not be liable to pay any kind of maintenance in terms of an order having been passed by the Tribunal or the Appellate Authority on an application filed under Section 22 of the Act. Thus, the question posed in the beginning is hereby answered in affirmative in favour of the petitioner to hold that the son-in-law is neither a ‘child’ nor a ‘relative’ and the father-in-law is not a parent as well.

In view of the above, the present petition is allowed and the order passed by both the maintenance Tribunal and Appellate Tribunal are hereby set aside.

05.07.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

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