

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

CWP No. 16282 of 2017

Date of Decision: 04.07.2018

MOHINDER SINGH

..... Petitioner

V/s.

**DEPUTY COMMISSIONER-CUM-APPELLATE TRIBUNAL (UNDER
MAINTENANCE AND WELFARE OF PARENTS AND SENIOR
CITIZENS ACT, 2007), GURDASPUR AND OTHERS**

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. P.S. Guliani, Advocate
for the petitioner.

Ms. Lavanya Paul, AAG, Punjab.

Mr. Parmjit Rajput, Advocate,
for respondents No. 3.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner, who is about 84 years of age, has challenged the order dated 14.06.2017 of the District Magistrate-cum-appellate Tribunal, Gurdaspur (hereinafter referred to as 'Appellate Tribunal') by which the appeal filed by respondent No. 3 against the order dated 02.12.2015 passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Dera Baba Nanak (hereinafter referred to as 'Maintenance Tribunal'), has been allowed.

In brief, the petitioner is the father of respondent No. 3. He was the owner of land measuring 33 kanal 9 marlas. The said land was transferred by the petitioner to respondent No. 3 by way of a registered transfer deed dated 04.10.2012. It is alleged that after the transfer, respondent No. 3 has stopped looking after the petitioner in regard to provision of his daily/basic needs, therefore, petitioner has filed the petition under Section 23 of the

Maintenance & Welfare and Senior Citizen Act, 2007 (hereinafter referred to as 'the Act') before the Maintenance Tribunal which was allowed on 21.10.2014. However, the appeal filed by the respondent No. 3 under Section 16 of the Act was decided on 16.05.2014 and the matter was remanded back to the Maintenance Tribunal to decide afresh. Thereafter, on 02.12.2015, the Maintenance Tribunal again decided the matter in favour of the petitioner but the said order was challenged by respondent No. 3 by way of an appeal again in terms of Section 16 of the Act before the appellate Tribunal. The appellate Tribunal allowed the said appeal of respondent No. 3 while relying upon a decision of the Division Bench of this Court passed in CWP No. 7598 of 2015 titled as Jagmeet Kaur Pannu Vs. Ranjit Kaur Pannu in which it has been held that the documents of transfer cannot be annulled until and unless it is stipulated therein that transfer has been made with the condition of service to be provided by the transferee.

Learned counsel for petitioner has submitted that there was a conflicting view of this Court in regard to the annulment of document of transfer under Section 23 of the Act in case there are no conditions imposed by the transferor and in this regard the decision rendered in the case of Jagmeet Kaur Pannu (Supra) was pitted against the another decision of this Court rendered in the case of Promil Tomar and others Vs. State of Haryana and others ; 2014 (1)RCR (Civil) 403 and Sumesh Anand Vs. Vinod Anand and others ; 2016 (1) RCR (Civil) 278. The said matter was referred to the Division Bench in CWP No. 5086 of 2016 titled as Smt. Raksha Devi Vs. Deputy Commissioner-cum-District Magistrate, Hoshiarpur and others which has been decided by the Division Bench on

03.05.2018 taking a view contrary to the view taken in the case of *Jagmeet Kaur Pannu (Supra)* holding that “Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is applicable even if the conditions stipulated therein viz. that the transferee shall provide the basic amenities and basic physical needs to the transferor, is stipulated only orally and is not in writing or is not a part of the documents of transfer.”

Learned counsel for the petitioner has, thus, submitted that once it has authoritatively been decided by this Court that the conditions may be oral as well in regard to the basic amenities and the basic physical needs are to be provided to the transferor, the decision taken by the Appellate Tribunal is patently erroneous, much less, in view of the decision of this Court in the case of *Jagmeet Kaur Pannu (Supra)* which has not been considered as a good law.

Learned counsel for the respondents could not dispute the decision in the case of *Smt. Raksha Devi (Supra)* and also could not cite any other judgment to the contrary. In view thereof, the decision in the case of *Smt. Raksha Devi (Supra)* is the law laid down by this Court and thus, the present petition is hereby allowed and the impugned order dated 14.06.2017 passed by the appellate Tribunal is hereby set aside.

July 4, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

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