

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17632 of 2018
Date of Decision:07.09.2018

Manjit Kaur

..... Petitioner

Vs.

The State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Surjit Singh Swaich, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the orders dated 05.02.2018 passed by the Maintenance Tribunal and dated 30.05.2018 passed by the Maintenance Appellate Tribunal by which the application filed by respondent No.4 under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short 'the Act'] was allowed by the Maintenance Tribunal and the appeal filed by the petitioner against the said order was dismissed by the Maintenance Appellate Tribunal.

In brief, respondent No.4, who happened to be the father of the petitioner, had transferred the land measuring 34 kanal 17½ marla, situated at Village Naulakha, in her favour vide registered deed of transfer Vasika No.2885 dated 9.3.2016. He made a complaint to the Tribunal that after the transfer of the property he had no source of income and the petitioner is not looking after him and as a result thereof, he had to live at Prabhu Asra Home, Jhanjeri, Tehsil and District SAS Nagar, Mohali. He had also given ₹5 lakh to the petitioner in cash. The application filed by respondent No.4 was allowed by the Maintenance Tribunal on the ground that there was a latent obligation on the part of the petitioner to look after her father, who had transferred his land measuring 34 kanal 17½ marla having the market value

of ₹63,00,000/- in her favour and in the absence of any kind of help to him, which is evident from the fact that he is living in a old age home or Prabhu Asra Home, the negligence on the part of the petitioner was found to be writ large. Similar view was expressed by the Maintenance Appellate Tribunal while dismissing the appeal filed by the petitioner.

Learned counsel for the petitioner has vehemently argued that the petitioner has already returned ₹5 lakh to her father. He has also submitted that respondent No.4 has made the complaint against the petitioner at the instigation of the persons living in Prabhu Asra Home otherwise she has never refused to serve him in his old age but it is not disputed that her father/respondent No.4 had transferred the land measuring 34 kanal 17½ marla in her favour vide Vasika No.2885 dated 9.3.2016.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that the amount which has been returned by the petitioner was belonging to respondent No.4, therefore, it cannot be said to be an act of assistance/maintenance on the part of the petitioner but the very fact that respondent No.4 is out of his home and is living at Prabhu Asra Home, Jhanjeri, Tehsil and District SAS Nagar, Mohali and has filed the complaint that he is not being looked after by the petitioner despite the fact that he has transferred all his land worth ₹63 lakh, is sufficient to uphold the decision taken by the Maintenance tribunal and the Maintenance Appellate Tribunal against the petitioner. Hence, I do not find any merit in the present petition and the same is hereby dismissed though without any order as to costs.

07.09.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No