

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

CWP-25505-2017 (O&M)
Date of decision : 13.09.2018

Devinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jaswinder Singh, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Respondent Nos.4 and 5 in person with
Mr. S.S. Rangi, Advocate.

JITENDRA CHAUHAN, J.

The petitioner seeks issuance of a writ in the nature of Certiorari for quashing of order dated 19.10.2016 (Annexure P-3) passed by respondent No.2, whereby, the prayer of the petitioner for cancellation of mutation and eviction of respondent Nos.4 and 5 has been declined, however, he has been awarded Rs.7,000/- per month as maintenance from respondent No.4; and order dated 28.03.2017 (Annexure P-4), passed by respondent No.3, affirming the order (Annexure P-3) passed by respondent No.2.

It is contended that the impugned orders are illegal and perverse as the same have been passed in contravention of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for

short, 'the Act'). There was express condition in transfer deed dated 26.11.2014, that the same would be liable to be cancelled, in case, respondent Nos.3 and 4, do not take care of the petitioner.

On the other hand, respondent Nos.4 and 5, present in person submit that they are already paying Rs.7,000/- per month to the petitioner towards maintenance. They also undertake to keep on serving the petitioner and paying the maintenance amount to him. It has been further brought to the notice of the Court that out of total eleven acres of land, the petitioner has already sold six acres and one acre has been transferred in the name of his daughter, whereas, only four acres of land has been transferred in their favour. The petitioner is getting approximately Rs.20,000/- as pension.

Heard.

After hearing learned counsel for the parties and respondent Nos.4 and 5 in person, the Court is satisfied with the undertaking made before this Court by respondent Nos.4 and 5. The petitioner is presently stated to be abroad. This is also to be noticed that the petitioner is a person of resources as he earlier sold six acres of land out of the total eleven acres held by him and the consideration amount has been retained by him. There is no evidence that the said amount was given or spent on respondent Nos.4 and 5. The petitioner is being regularly paid the maintenance amount of Rs.7,000/- per month towards the maintenance by respondent Nos.4 and 5. It has also come in the impugned judgments that the petitioner is an alcoholic, habitual of using filthy language and hurling abuses.

Keeping in view the status of the family, this Court feels that the amount retained by the petitioner is sufficient to maintain himself.

Learned counsel for the petitioner could not refer to any material on record which suggests that respondent Nos.4 and 5 are not maintaining the petitioner or they are in arrear of payment towards maintenance. In the circumstances, no fault could be found with the impugned orders (Annexures P-3 and P-4) and the same are hereby affirmed.

Consequently, the instant petition is hereby dismissed.

13.09.2018

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No