

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

**C.W.P No. 7655 of 2018 (O&M)
Date of Decision:- 27.03.2018**

Kashmir Singh

....Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. B.M. Vinayak, Advocate, for the petitioner.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 20.11.2017 by which the Maintenance Tribunal has allowed 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').

Learned counsel for the petitioner has submitted that Banta Singh was the owner of the property. He had two sons, namely, Kashmir Singh (petitioner) and Balbir Singh (respondent No.5). Banta Singh also had a wife, namely, Heera Devi (respondent No.4) to whom he had bequeathed all his property in question by way of a Will. After the death of Banta Singh, respondent No.4 became the owner of the property in question. She transferred the property in question to the extent of 1/3rd share in favour of the petitioner and 2/3rd share in favour of respondent No.5. It is submitted that after the transfer, respondent No.4, who happened to be the mother of the petitioner, filed an application under Section 23 of the Act before the Maintenance Tribunal for the cancellation of Transfer Deed on

the ground that the petitioner is not rendering any service to her in lieu of the transferred property. The said application was allowed against which the present petition has been filed.

At the outset, learned counsel for the petitioner has been confronted with Section 16 of the Act which provides for a right of an appeal against the order passed by the Maintenance Tribunal.

Learned counsel for the petitioner submits that the petitioner is not competent to file the appeal because he is the transferee.

I have heard learned counsel for the petitioner and perused the record.

Section 16 of the Act provides that any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order may prefer an appeal to the Appellate Tribunal. Since the petitioner is himself 65 years of age as mentioned in the memo of parties, thereafter, he is a senior citizen in view of Section 2(h) of the Act. Therefore the petitioner has a right to challenge the order passed by Maintenance Tribunal in appeal and even otherwise, any person who is aggrieved against the order passed by the Tribunal can prefer an appeal.

Thus, in my considered opinion, the present petition is not maintainable in view of the availability of a right of appeal and is thus dismissed as such. But the petitioner may, if so advised, avail the remedy of appeal in accordance with law.

March 27, 2018
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(RAKESH KUMAR JAIN)
JUDGE

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