

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

**CWP-95-2019 (O&M)
Date of Decision: 29.11.2019**

Prabhu Dayal	Versus	... Petitioner
Deputy Commissioner & others		... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ajay Jain, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

Mr. P.R. Yadav, Advocate for respondents No.3 and 4.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner herein is a senior citizen aged 78 years.

Pleadings on record would show that the petitioner had filed an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred to as 'the 2007 Act') seeking cancellation of a transfer deed dated 18.09.2014 that he had executed pertaining to the property in question in favour of his grandsons.

Instant writ petition is directed against the order dated 04.04.2018 passed by the Tribunal at Annexure P-1 and whereby the application has been adjourned sine die to await the decision by the civil Court in a suit preferred by the daughter of the petitioner challenging the validity of the transfer deed that was registered on 18.09.2014. Further challenge is to the order dated 09.10.2018 passed by the Deputy Commissioner-cum-Chairman, Maintenance Appellate Tribunal, Rewari (Annexure P-2) affirming the order at Annexure P-1.

Counsel for the parties have been heard at length.

Mr. P.R. Yadav, Advocate representing respondents No.3 and 4

has been very fair and candid in admitting that keeping in view the objective of the 2007 Act, the authorities i.e. respondents No.1 and 2 ought to have adjudicated upon the application preferred by the petitioner under Section 23 of the 2007 Act on merits. The factum of a civil suit having been instituted by the daughter of the petitioner and paternal aunt of respondents No.3 and 4 could not be treated as an embargo and impediment for the application to be taken up and to be decided.

In the considered view of this Court, respondent No.2 ought to have proceeded further in the matter so as to take a decision on merits on the application dated 23.08.2017 that the petitioner had preferred under Section 23 of the 2007 Act without being influenced by the fact that the civil suit stood preferred pertaining to the same very property and which was pending adjudication. Deferment of proceedings in the application preferred by the petitioner to await the outcome of the civil proceedings would defeat the very purpose for which the 2007 Act was enacted.

In view of the above and without opining on the merits of the case, writ petition is allowed. The orders dated 04.04.2018 and 09.10.2018 at Annexures P-1 and P-2 are set aside.

Matter is remanded back to respondent No.2 for taking up the application dated 23.08.2017 preferred by the petitioner under Section 23 of the 2007 Act and for the same to be decided on merits and by adopting the procedure as mandated and permitted in

accordance with law.

Parties to appear before respondent No.2 on 12.12.2019.

Petition is allowed in the aforesaid terms.

29.11.2019

(TEJINDER SINGH DHINDSA)
JUDGE

harjeet

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |