

105

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

CWP-3042-2019

Date of decision : 14.03.2019

Jasvir Singh

..... Petitioner

versus

**The District Magistrate-cum-Appellate
Maintenance Tribunal and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Kamaljeet S.Mamrat, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

In pursuance to an application filed by Sant Singh under Sections 4, 5 and 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007(hereinafter referred to as 'the 2007 Act' for short), order dated 07.11.2017 was passed by the Sub Divisional Magistrate, Khamano directing his son namely Jasvir Singh to pay Rs. 3000/- per month as maintenance. Such order stands affirmed by the District Magistrate-cum-Appellate Maintenance Tribunal, Fatehgarh Sahib vide order dated 28.03.2018(Annexure P-6).

The son of Sant Singh has filed the instant petition assailing the afore-noticed two orders.

Counsel would submit that the impugned order would cause extreme hardship to the petitioner as he is a mere daily wager and earning his living by rendering service under MNREGA projects. It is further argued that the impugned orders suffer from a patent infirmity inasmuch as the

application that had been filed by the father under the 2007 Act was against both the sons i.e. the present petitioner as also his brother namely Kulwinder Singh but the entire burden of maintenance of Rs. 3000/-per month has been fastened against the petitioner alone. Further urged that Sant Singh/father is a man of means and is in a position to look after himself and there was no occasion for the authorities concerned to have directed a monthly maintenance against the son.

Having heard counsel for the petitioner at length and having perused the pleadings on record this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

Counsel does not dispute that Sant Singh-respondent No.3 and who is the father is aged 70 years. Under Section 4 of the 2007 Act a senior citizen including a parent who is unable to maintain himself from his own earnings or out of the property owned by him is entitled to make an application under Section 5 of the Act against one or more of his children and who are not minors, to seek maintenance. The object of the 2007 Act itself is to provide for effective provisions for the maintenance and welfare of the parents and senior citizens as is guaranteed and recognized under the Constitution.

The Sub Divisional Magistrate, Khamano prior to passing the impugned order dated 07.11.2017(Annexure P-7) had called for a report of the Naib Tehsildar and which had been duly furnished. The same has been placed on record at Annexure P-8. Perusal thereof would reveal that the petitioner herein is the owner of land measuring 5 kanals 11 marlas, his brother Kulwinder Singh owns land measuring 6 kanals and 6marlas and the

father Sant Singh has ownership of land to the extent of 8 ½ marlas only.

The contents of the report of the Naib Tehsildar at Annexure P-8 have not been rebutted. In the light thereof the contention raised by counsel for the petitioner that his father is financially comfortable is without merit.

The order dated 28.03.2018 Annexure P-6 passed by the Appellate Authority would reveal that the father is presently having his residence with the other son namely Kulwinder Singh. Counsel during the course of hearing admits to such factual premise. This in itself would justify the direction as regards furnishing maintenance at the rate of Rs.3000/- per month from the other son i.e. the present petitioner.

In the considered view of this Court the impugned orders directing the petitioner to pay a sum of Rs. 3000/- per month as maintenance to his father cannot be construed as excessive and rather conform to the objective of the 2007 Act.

No interference in the matter is called for.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

March 14, 2019

sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No