

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

CWP No. 5757 of 2019
Date of decision:-08.04.2019

T.R. Saini

.....Petitioner

versus

The Appellate Authority-cum-Deputy Commissioner and ors.

.....Respondents

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

Present:- Mr. Som Nath Saini, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Challenge in the instant writ petition is to the order dated 05.04.2018 (Annexure P-4) passed by the Additional District Magistrate, SAS Nagar, declining an application/complaint that had been filed by the petitioner under the provisions of the Maintenance and Welfare of Parents and Senior Citizen Act 2007 as also the order dated 30.10.2018 passed by the Deputy Commissioner-cum-Presiding Officer, Appellant Tribunal, SAS Nagar, rejecting the appeal preferred by the petitioner.

Counsel for the petitioner has been heard at length and the case paper-book has been perused.

Placed on record at Annexure P-1 is the complaint/application that had been made by the petitioner who claims himself to be a senior citizen under Section 23 read with Rule 22 of the Maintenance and Welfare of Parents and Senior Citizen Act 2007 and the Punjab Maintenance of Parents and Senior Citizens Rules 2012, raising the following prayer:-

“Seeking a declaration that the transfer qua House No.1325 Guru Teg Bahadur Society, Sector-70, Mohali in favour of Ajay Saini (his son) is null and void and further seeking eviction of his son from the said premises.”

Perusal of the impugned order dated 05.04.2018, passed by the Additional District Magistrate, SAS Nagar, would reveal that a report as regards ownership of the flat/premises had been called for from the Sub Divisional Magistrate, Mohali and as per the report duly furnished, the flat was found to be in the ownership of one Lakhvir Singh son of Sh.Ajmer Singh. While declining the application/complaint filed by the petitioner, a finding of fact has been recorded that the petitioner is not even the owner of the house.

Under such circumstances, this Court does not find any patent infirmity in the impugned order rejecting the prayer of the petitioner seeking a declaration for transfer of the flat in favour of his son to be null and void.

Suffice it to observe that factually the flat in question is still under the ownership of the original owner namely Lakvir Singh and has not been transferred in the name of his son even though an application in such regard may be pending.

At this Stage, Mr. Som Nath Saini, Advocate, would advert to the rejoinder that the petitioner had filed to the reply that had been submitted by his son before the District Magistrate SAS Nagar, Mohali and wherein it had been stated that respondent No.1 namely Ajay Saini is not entitled to get the house transferred in his favour, inspite of having applied for transfer of the same as per letter dated 14.11.2017 and that his

son is liable to return all the original documents which are in his possession qua the flat/premises in question as it is only the father who has made the necessary payments in such regard.

Even if that be so, the remedy available to the petitioner would not be under the provisions of 2007 Act as ownership of the premises in question would be a pre-requisite to claim any relief.

In view of the above while declining to interfere in the instant petition, liberty is granted to the petitioner to avail of his remedies, if so advised and as available in accordance with law.

(TEJINDER SINGH DHINDSA)
JUDGE

08.04.2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No