

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20853 of 2016

Date of Decision: 23.09.2019

Bant Singh

...Petitioner

Vs.

Appellate Tribunal-cum-Deputy Commissioner and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. U.K. Agnihotri, Advocate
for the petitioner.

Mr. Arjun Kundra, Advocate
for respondent No.3.

Mr. Vikas Bahl, Senior Advocate with
Mr. Parvinder Singh, Advocate
for respondent No.4.

RAJIV NARAIN RAINA, J. (Oral)

1. Having heard the learned senior counsel for respondent No.4/Gurdwara Sahib, Village Kambala, Tehsil and District Mohali pressing for vacation of stay by way of status quo order and the learned counsel for the petitioner in prosecution of the prayers in the petition, I have no doubt in my mind that the interim order dated 04.10.2016 directing parties to maintain *status quo* over the corpus land in question till further orders does not deserve to be continued for the reason that respondent No.4, represented by Mr. Behl, is a *bona fide* purchaser of the land in dispute for valuable consideration, which property was transferred willingly by the petitioner to his son, Harbhajan

Singh/respondent No.3 in the year 2010. The father and son were satisfied with the sale for 5 long years after the son received a huge amount of money towards sale consideration. The father has approached this Court through this petition against the the order of the Tribunal seeking to declare void the registration of sale deed in favour of the Gurdwara, praying that the sale deed executed by the father in favour of his son should be set aside under the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 as his son was neglecting to maintain him.

2. The Tribunal has passed an order of maintenance directing the son to pay Rs.10,000/- per month to the petitioner-father for his well-being but has simultaneously held that respondent No.4 Gurdwara is a bona fide purchaser of the property for valuable consideration. Therefore, the outward sale deed by the son Harbhajan Singh to the Gurudwara Sahib is legal and valid. If the petitioner Bant Singh has any *lis* or dispute with his son, he could have acted within three years of the sale deed but he let limitation pass even to bring a suit challenging the alienation, may be, from father to son. Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was not designed for such a situation to strike at the root of the sale deed of 2010 after long lapse of time which has a cascading effect on the rights of the purchaser.

3. It is my firm belief that 4th respondent was neither a

necessary nor proper party to the proceedings and especially in the present writ petition filed against the order of transfer of property in a completely oblique fashion. If the father and son have any issues between them, the father is free to recover the sale consideration from the son, for which the appropriate remedy would not be writ jurisdiction or the Tribunal but exclusively in the domain of the civil court. It appears that the father-son duo have joined hands ingeniously to retrieve their property by misusing the law and the jurisdiction of the Tribunal to somehow get the sale deed nullified on the pretext of the son not looking after the father. The Tribunal has not fallen into the trap. The challenge must fail here and now.

4. Having got thus far, I see no purpose in keeping this matter pending against the order of Tribunal to hear it on some other day, as from what I have understood the impugned order ex facie is unexceptional as it does not work any injustice on the disputing parties. I am told that the sale consideration was about Rs. 82 lacs received by the petitioner's son, which is substantial in the year 2010. He had received Rs. 67,00,000/- by cheque and Rs. 15,50,000/- by cash from the Gurdwara Sahib for land which adjoins or is near about the precincts of the Gurdwara property before the deal. Prices of property have risen phenomenally over the past decade, tempting the petitioner in cahoots with his son, to recover the property by means fair and foul.

5. In view of the discussion above, I find no merit in this

petition and order it to stand dismissed.

23.09.2019

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(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable :</i>	<i>Yes/No</i>