

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

Letters Patent Appeal No. 1564 of 2019 (O&M)

Date of Decision: 16.09.2019

Parmeshwari Devi and another

.....Appellants

versus

Appellate Authority under Parents and Senior Citizen Maintenance and
Welfare Act, 2007 cum District Collector, Fazilka and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Suresh Kumar Aneja, Advocate, for the appellants.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 20.08.2019 passed by the learned Single Judge dismissing the writ petition filed by the appellants herein.

2. Facts required to be noticed for adjudication of the controversy in brief can be summarized as under:-

Appellants-petitioners are the daughters of respondent No.3 who is a senior citizen and she executed a transfer deed dated 03.03.2010 pertaining to the land in favour of the appellants (daughters). Subsequently, respondent No.3 made an application under section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for annulment of the aforesaid transfer deed. The application was partly allowed vide order dated 30.11.2018 by Sub Divisional Magistrate, Fazilka. The prayer made for

setting aside the transfer deed was declined and only a maintenance amount of Rs.2,000/- per month was awarded against each of the two appellants. An appeal was preferred by respondent No.3 which was allowed vide order dated 30.04.2019 by the Appellate Authority and in terms thereof the deed in question was cancelled. The appellants herein approached this Court by filing the writ petition which has been dismissed by the learned Single Judge by making the following observations:-

“In the present case respondent No.3 had filed the application seeking cancellation of the transfer deed by making specific averments that both her daughters (petitioners herein) were residents of District Sri Ganganagar (Rajasthan) as also Fazilka and prior to execution of the transfer deed both the daughters used to visit her frequently and also used to give money for her maintenance as also towards medical aid. However, subsequent to the transfer deed, the daughters have neglected her and that she now has no source of income. As per pleadings on record the petitioners herein claim to be 65 years and 73 years of age, respectively. It goes without saying that respondent No.3 i.e. their mother would be more than 90 years of age as of date. No evidence had been led by the petitioners before the Maintenance Tribunal or the Appellate Authority as having provided basic amenities and due care to their mother.

*Suffice it to observe that transfer of the land that had been made by respondent No.3 was with the fond hope and expectation that she would be looked after in the twilight of her life. The petitioners having failed to discharge their obligation towards their mother have made themselves liable for avoidance of the transfer deed. Even the reliance placed by counsel on the judgments in Sarabjit Kaur's case, Jagmeet Kaur Pannu's case and Gurdev Singh's case (supra) is misplaced. Section 23 of the 2007 Act has been considered by a Division Bench of this Court in Smt. Raksha Devi v. Deputy Commissioner-cum-District Magistrate, Hoshiarpur and others, **2018 (4) R.C.R.(Civil) 218** and a view has been taken that the condition as*

regards transferee to provide basic amenities and basic physical needs to the transferor need not be required to be made in express terms in the document by virtue of which the transfer had been effected. The same would be read into the document by way of a deeming fiction keeping in view the objective of the 2007 Act.

The submissions advanced by the counsel are found to be without merit.

Petition is dismissed.”

3. On being specifically asked, learned counsel for the appellants except for saying that the finding that the appellants were not taking care of her mother are incorrect or wrong could not point out any material or record to substantiate that the findings are without any basis or factually incorrect. On the contrary the Appellate Authority which is a fact finding authority cancelled the transfer deed on the ground that the appellants failed to maintain their old age mother and the same has even been affirmed by the learned Single Judge.

4. In the absence of any cogent evidence to the contrary we see no good ground to accept this argument of learned counsel for the appellants. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.09.2019
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√