

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

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CWP No.911 of 2022 (O&M)
DATE OF DECISION: 29th AUGUST, 2022

Ajit Singh

.... Petitioner

Versus

**Sub Divisional Magistrate-cum-Maintenance Tribunal, Rajpura,
District Patiala and others**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Vishal Goel, Advocate,
for the petitioner.

Mr. Sandeep, Addl. Advocate General, Punjab
for respondent No.1.

Mr. S.S. Grewal, Advocate,
for respondent No.2.

None for respondent No.3.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of appropriate writ, order or direction in the nature of Certiorari for setting aside the order dated 14.12.2021 (Annexure P-4) passed by respondent No.1, whereby the application filed by respondent No.2 under Section 23 of Maintenance & Welfare of Parents and Senior Citizens Act, 2007, is allowed and ordered for cancellation of Transfer Deed No.7357 dated 09.12.2011 (Annexure P-2) executed by respondent No.2 in favour of his sons i.e. petitioner and performa

respondent No.3, with a further prayer for staying the operation and implementation of order dated 14.12.2021 (Annexure P-4) during the pendency of the present writ petition.

It is submitted by the counsel for the petitioner that the property in question is ancestral property. The petitioner had received the property in a family settlement, through which the agricultural land was partitioned by respondent No.2-father between the petitioner and his other brother Daljit Singh. The respondent-father was being duly maintained by the petitioner. However, subsequently his other brother has misguided the respondent-father and made him to file the proceedings in which the impugned order has been passed. Otherwise, the petitioner was performing all his duties as a son. Therefore, the cancellation has wrongly been presumed by the authority and the order passed by the authority is illegal.

On the other hand, the counsel for respondent No.2-father has submitted that the order has rightly been passed by the authority. Although for some time, the respondent-father was maintained by the petitioner, however, subsequently he was shunted out from the house by the petitioner. The respondent-father had no alternative but to file the proceedings for cancellation of the transfer deed against both of his sons. Although the respondent-father has managed to stay in the house of his other son Daljit Singh, even he is not providing the food to the respondent-father. The respondent-father has to manage his food from the Gurdwara. This itself is sufficient to show that both the sons have failed to maintain the father; as required under the law. Therefore, the order does not call for any interference.

Having heard the counsel for the parties and having perused the case file, this Court does not find any substance in the arguments of the

counsel for the petitioner. Undisputedly, it has come on record that the property in question was transferred by a registered transferred deed by the respondent-father in favour of the petitioner and his other brother Daljit Singh. It has also come on record that the respondent-father was not being maintained properly, as required under the law. On the contrary, it has come on record that the respondent-father was thrown out of his house and left to fend for himself even for his food. Therefore, the order impugned in the present petition has rightly been passed by the authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

In view of the above, finding no merit in the present petition, the same is dismissed. However, it clarified that this Court is not deciding upon the nature of the property; as such. Therefore, the petitioner would be at liberty to raise his claim before the appropriate authority, if he so desires, based on the nature of the property, as asserted by him.

The pending miscellaneous application, if any, is also disposed of as such.

29th AUGUST, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

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