

206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12970-2018
Date of Decision: 27.10.2022

Keshu Ram

..... Petitioner

Versus

Deputy Commissioner-cum-Chairman, Maintenance Appellate Tribunal,
Rewari and others Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ajay Jain, Advocate,
for the petitioner.

Mr. Harish Rathee, Deputy Advocate General, Haryana,
for respondents No.1 and 2.

Mr. Gopal Sharma, Advocate,
for respondents No.3 and 5.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the impugned order dated 14.03.2018 (Annexure P-7) passed by respondent No.1.

Learned counsel for the petitioner has submitted that the impugned order was required to be signed by the requisite number of members of the Tribunal, which constitute the coram under Rule 17 of the Haryana Maintenance of Parents and Senior Citizens Rules, 2009. However, that has not been so signed. Therefore, the said order is defective as such; and is totally non-enforceable. The matter deserves to be remanded

to the authorities for compliance of law.

Learned counsel for respondents No.3 to 5 has submitted that the gift deed in their favour was executed before the commencement of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act'). Therefore, the petition, at the instance of the senior citizen, itself would be non-maintainable under the provisions of the Act.

It is not even disputed by either of the side that the date of the execution of the gift deed involved in the present petition is 14.12.2007, which is, undisputedly, before the commencement of the Act. Therefore, the petition on behalf of the petitioner-senior citizen itself is not maintainable as per the provisions of the Act. Since, there cannot be any estoppel against the statute, therefore, any reasoning given by any authority cannot be a ground to sustain the petition or any order or any part thereof. Therefore, all the orders passed by the authorities on the aspect deserve to be set aside.

In view of the above, the present petition is dismissed by setting aside the order passed by the Appellate Authority on the ground that it is not signed by the requisite coram; and by setting aside the original order passed by the Tribunal on the ground that the date of the transfer deed was beyond the scope of the applicability of the Act.

(RAJBIR SEHRAWAT)
JUDGE

27.10.2022
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No