

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

CWP-18333-2018 (O&M)

Date of decision: March 28, 2022

Ajit Kaur

....Petitioner

versus

Appellate Authority and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

Mr. Sandeep Sharma, Advocate for respondent No.3.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the order dated 08.06.2017 (Annexure P-2) passed by respondent No.2 and the order dated 09.04.2018 (Annexure P-4) passed by respondent No.1.

2. Learned counsel for the petitioner submits that petitioner being a senior citizen filed an application before learned Sub-Divisional Magistrate & Presiding Officer under Maintenance & Welfare of Parents & Senior Citizen, Fatehabad, under Sections 7 and 23 of the Act *ibid* seeking cancellation of transfer deed No.36 dated 01.04.2015 executed by her in favour of respondent No.3 (grandson of the petitioner) regarding land measuring 5 Acres comprised in Khewat No.807 and 806 Min situated at Village Bighar, Tehsil and District Fatehabad. The land was transferred upon an assurance that respondent No.3 will make the payment of minimum amount of Rs.1 lakh to

her for basic amenities and physical needs. He submits that on 08.06.2017, learned Presiding Officer ordered cancellation of transfer deed. Further submits that in the appeal preferred against the aforesaid order, the Appellate Tribunal vide order dated 09.04.2018 set aside the same without appreciating the facts of the case.

3. Present case is a counter-blast to the litigation between the petitioner's other sons and grandson (respondent No.3) which preceded and was prior to invoking of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'Act').

4. The Appellate Tribunal below vide order dated 09.04.2018 (Annexure P-4) disposed of the appeal while protecting the rights of the petitioner and awarded maintenance, which is premised on the following reasoning: -

"....Since the issue under adjudication in the appeal here involves family dispute over the coparcenaries' joint stock property, and thus the senior citizen is not qualified for relief under section 23(1) of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, therefore, the impugned decision dated 08.06.2017 of Lower Tribunal qua deed No.36 dated 01.04.2015 for 5 acre land situated at village Bigher, Tehsil and District Fatehabad is also not reasonable. All these deeds were executed as a part of family settlement and there is no recital that the land was transferred with the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, nor any such implied interpretation was put forward by the senior citizen. Based on this discussion, we think it appropriate to set aside the impugned order dated 05.06.2017 passed by learned Lower Tribunal. Further, since the senior citizen Smt. Ajit Kaur (appellant here) is pleading for maintenance, therefore Rs.10,000/- per month is fixed as maintenance which shall be credited in her saving bank account before 7th of every month – Rs.2,000/- shall be shared by respondent Sh. Malkit (grandson of senior citizen) who is retaining small share of agriculture land and Rs.8,000/- by Sh. Sharan Singh (son of senior citizen) who is retaining large chunk. The parties are advised to get their rights and shares declared by approaching appropriate Court and then to get their land

partitioned by approaching appropriate authority. Appeal is decided in these terms.”

5. I see no grounds to interfere in the aforesaid reasons as there is no irregularity either in facts or law. That apart, intent of the statute has been well taken care of in the concluding part of the appellate order whereby petitioner has been awarded Rs.10,000/- as maintenance to be paid by Sharan Singh-son and by her grand-son-Malkit though she has conveniently chosen not to sue her other son to whom she has given larger chunk of property by way of gifts, which only shows that it may well have been a planted litigation. Be that as it may, the petition is being dismissed simplicitor for the reasons already recorded above.

6. No grounds to interfere are made out. Dismissed.

(ARUN MONGA)
JUDGE

March 28, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No