

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

LPA-1022-2022 (O&M)

Date of Decision : 16.11.2022

Puran Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Gursimranjit Singh, Advocate for the appellant.

VIKRAM AGGARWAL, J

This Letters Patent Appeal assails the judgment dated 11.10.2022, passed by the learned Single Bench vide which the writ petition filed by the appellant was dismissed.

The appellant, being the owner of agricultural land measuring 81 kanal 2 marlas at Village Maur Nabha, Tehsil Tappa, District Barnala executed a transfer of ownership deed on 17.07.2012 transferring his entire property to his son Gural Singh and grand son Ramandeep Singh (son of previously deceased son Harpal Singh) in equal shares. As per the appellant, this transfer deed was got executed by his son and grand son in connivance with each other since the appellant was confined to bed after having met with an accident. Though they gave full assurance to the appellant that they would provide basic amenities to

him and would fulfill his basic physical needs, they kept their word only for sometime and thereafter, their behaviour changed. They started misbehaving with the appellant and started maltreating him. On an application filed by the appellant under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act'), the Tribunal declared the transfer of property as null and void vide order dated 12.07.2018 (Annexure P-1 with the writ petition) (reference to annexures hereinafter shall indicate reference to annexures with the writ petition). In appeal, the Appellate Tribunal reversed the order passed by the Tribunal vide order dated 28.11.2018 (Annexure P-2).

Against the said order dated 28.11.2018 (Annexure P-2), a writ petition was filed which was also dismissed by the learned Single judge vide judgment dated 11.10.2022 against which the present appeal has been preferred.

Learned counsel for the appellant has contended that the learned Single Bench has erred in dismissing the writ petition. He argued that vide order dated 14.07.2022, the learned Single Bench had directed respondents No.3 and 4 to pay Rs.1,00,000/- each to the appellant as interim maintenance which they also did not pay and that he has been left to fend for himself in the evening of his life and has been deceived by his own blood relations. Learned counsel has contended that even prior to the non-compliance of the order passed by the learned Single Bench, respondents No.3 and 4 had not been maintaining the appellant. It has been contended that once respondents No.3 and 4 have failed to maintain him, the land is liable to be transferred back to him after cancellation of the transfer deed.

We have considered the submissions made by the learned counsel for the appellant and have gone through the impugned judgment as also the record of the writ petition.

It is an admitted fact that the appellant transferred his entire land in favour of respondents No.3 and 4 in equal shares. As per provisions of Section 23 of the Act, the transfer deed can be cancelled if the appellant is not being maintained by respondents No.3 and 4 and the onus to prove this would be on the appellant. It has been observed by the learned Single Bench that it was the categorical stand of respondent No.3 before the learned Single Bench that he was ready to ensure the proper maintenance of the appellant by any means whether by paying of maintenance or by keeping the appellant in his own house. It was also observed that during the course of the proceedings before the learned Single Bench, this offer was made to the appellant but he flatly refused while stating that he only wanted his property back. The learned Single Bench, therefore, rightly arrived at the conclusion that the intention of the appellant was clearly not to ensure his maintenance and the proceedings under the Act had been initiated by him out of vengeance. Infact, respondent No.3 had extended this offer before the learned Tribunal also. No fault can, therefore, be found with the conduct of respondent No.3.

In so far as respondent No.4 is concerned, he chose not to file any appeal against the order passed by the Tribunal and even did not contest the writ petition. The stand taken by respondent No.3 that the appellant was acting on the instigation of respondent No.4 also, therefore, seems to be true.

In view of the aforementioned facts and circumstances, we do not find any reason to interfere with the judgment passed by the learned Single Bench. The appeal being devoid of merit is, therefore, dismissed.

(AUGUSTINE GEORGE MASIH)

(VIKRAM AGGARWAL)

JUDGE

JUDGE

16.11.2022

mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No