

**101+214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-2193-2022 (O&M)
Date of decision : 03.05.2023**

Dayawanti

...Petitioner

Vs.

**Appellate Tribunal Chaired
by District Magistrate, Jind and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

**Present: Mr. Abhimanyu Batra, Advocate
for the petitioner.**

Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

**Mr.Amit Kumar Jain, Advocate
for respondent No.3.**

MANOJ BAJAJ, J.

CM-6823-CWP-2023

Application is allowed as prayed for.

Annexure P-9 is taken on record.

Main case

Petitioner-Dayawanti has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing/modifying the impugned order dated 06.12.2021 (Annexure P-1) passed by District Magistrate, Jind, whereby her appeal filed against the order dated 20.08.2021(Annexure P-2) passed under Section 22 Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was dismissed.

Learned counsel submits that the petitioner being senior citizen brought a claim under Section 22 Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to seek cancellation of transfer deed dated

28.01.2015 (Annexure P-3), which was executed by her to transfer the immovable property bearing House No. 3723, Block-D, Urban Estate, Jind in favour of her son Sunder Singh and on the strength of this transfer deed, the respondent No.3-daughter-in-law alongwith her two children is occupying the said property. He submits that after the transfer of property, the senior citizen was not treated properly, therefore, she was compelled to invoke the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, but vide impugned order dated 20.08.2021(Annexure P-2), Sub Divisional Magistrate, Jind neither cancelled the transfer deed, nor evicted respondent No.3 and her family and instead awarded a monthly maintenance of Rs.5,000/- to be deposited by the respondent No.3 in the petitioner's account, alongwith permission to the senior citizen to live in a room situated on ground floor for her subsistence.

Aggrieved against this order, the petitioner preferred the appeal, but the appellate authority vide its order dated 06.12.2021 has also refused to interfere with the impugned order dated 20.08.2021 passed by Sub Divisional Magistrate, Jind and has upheld the same. He prays that the writ petition be allowed and the claim of the senior citizen be accepted by ordering eviction of the respondent No.3 from the property in question.

During the course of hearing, it is not disputed by learned counsel that through transfer deed dated 28.01.2015 (Annexure P-3), the house in question was transferred by senior citizen in favour of her son Sunder Singh, who died on 07.10.2016 and subsequent to his death, she filed this application under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeking eviction of respondent No.3 and her children on 20.07.2020.

After hearing the learned counsel and considering their submissions, it becomes clear that after transfer of property by senior citizen vide transfer deed on 28.01.2015 (Annexure P-3), petitioner never raised any grievance during the life time of the transferee-Sunder Singh, who died on 07.10.2016, and she raised the issue of eviction of her widowed daughter-in-law in July 2020. Since, the property was owned by husband of respondent No.3-Meena Devi, therefore, by natural succession it would devolve upon both the parties in case Sunder Singh died intestate. Therefore, in the given facts, it can not be said that the respondent No.3-Meena Devi has no right to reside in the property of her deceased husband. A perusal of the impugned order dated 06.12.2021 (Annexure P-1) passed by the appellate Tribunal shows that the statutory authorities have carefully examined the facts and circumstances of this case, while partly accepting the claim of the senior citizen. The impugned decisions are based upon proper appreciation of material on record, therefore, no interference is warranted by this Court.

Resultantly, the writ petition is dismissed.

(MANOJ BAJAJ)
JUDGE

03.05.2023

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No