

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

CWP-2712-2019

Date of decision : 04.05.2023

Devi

...Petitioner

Vs.

**Presiding Officer, Appellate Tribunal
of Maintenance and Welfare of Parents
& Senior Citizen, Narnaul and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Anjali, Advocate for
Mr. Devender Arya, Advocate for the petitioner.

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

MANOJ BAJAJ, J.

Petitioner (senior citizen) has preferred this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari to challenge the order dated 20.12.2018 (Annexure P-10) passed by the appellate authority, whereby it has affirmed the decision dated 03.10.2017 (Annexure P-8) passed by the Maintenance Tribunal, dismissing the petitioner's application seeking cancellation of the gift deed dated 21.06.2012 executed in favour of respondent No.3.

Briefly, the facts leading to the petition are that the petitioner along with her husband brought an application under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 on 22.02.2013 (Annexure P-2), wherein it was claimed that by virtue of sale deed bearing No.305 dated 25.05.1981, petitioner No.1, namely, Hoshiyar Singh purchased the subject property and its mutation was also sanctioned in his favour. Subsequently, he

raised construction of shops and residential house. Since, the couple has only six daughters, therefore, they adopted Deepak, son of their daughter, namely, Ginni Bai, who by taking an undue advantage of the relationship, got a forged and fabricated gift deed bearing No.560 dated 21.06.2012 registered in his favour and claimed cancellation of the said instrument on the ground that Deepak refused to provide health care and other amenities to the senior citizens. As per the pleadings in the application, senior citizens also filed a civil suit for declaration seeking cancellation of the gift deed dated 21.06.2012. Further, by highlighting their poor condition and lack of means, it was prayed that they are entitled to receive the monthly maintenance of Rs.10,000/- and also prayed that the gift deed be cancelled.

Through a brief order dated 14.10.2013 (Annexure P-3), the Maintenance Tribunal, Sub Division Ateli directed respondent No.3, namely, Deepak to remove his luggage within ten days from the house and shops for handing over the vacant possession to the senior citizens. Since the order dated 14.10.2013 was not complied with, the Maintenance Tribunal vide its order dated 06.11.2013 (Annexure P-4) reiterated the earlier directions and aggrieved against these two orders, respondent No.3 preferred CWP-24773/2013 wherein, the writ Court not only set aside the orders dated 14.10.2013 and 06.11.2013, but also proceeded to dispose of the application by senior citizens as the petitioner had given an undertaking that he would pay an amount of Rs.10,000/- per month to the senior citizens w.e.f. December, 2016.

Aggrieved against this, petitioner- Smt.Devi preferred LPA No.1332/2017, wherein the decision of the Writ Court granting maintenance of Rs.10,000/- to the senior citizen was maintained, but the disposal of the

application under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 by the Writ Court was set aside. Thereafter, the claim of the senior citizen was dismissed vide order dated 03.10.2017 and said decision was further upheld by the appellate authority vide order dated 20.12.2018. Hence this writ petition.

Notice of motion in the writ petition was issued on 09.12.2019, and thereafter, reply on behalf of contesting respondent No.3 was filed on 19.04.2022. Today, learned counsel for the petitioner prays for an adjournment as the arguing counsel is not available, however, the said prayer is declined as the petition is pending for the last four years and previously also on various occasions, counsel had sought adjournments.

Learned counsel for respondent No.3 has drawn the attention of the Court to the application dated 22.02.2013 filed by the senior citizens and pointed out that in this application itself, it is specifically pleaded by the senior citizen that in order to seek cancellation of gift deed dated 21.06.2012 (Annexure P-1), a civil suit was filed by him. He has drawn the attention of the Court to the judgment and decree dated 17.09.2016 (Annexure P-7) to submit that the said civil suit was dismissed, wherein the legality and validity of the gift deed dated 21.06.2012 has been upheld. He submits that the authorities have examined the evidence on record carefully while dismissing the claim of the senior citizen relying upon the decision of the Civil Court, therefore, no interference is warranted.

After hearing learned counsel and considering the material on record, this Court finds that the issue relating to the genuineness of the gift deed dated 21.06.2022 already stands tested by the Civil Court on the strength

of the evidence adduced by the parties through judgment and decree dated 17.09.2016 (Annexure P-7), whereby the material issues were decided against the senior citizen and the said decree would bind the rights of the parties relating to the suit property. A perusal of the order dated 03.10.2017 (Annexure P-8) shows that the Maintenance Tribunal, Narnaul followed the decision of the Civil Court and declined the claim of the senior citizen relating to cancellation of the gift deed, however, the maintenance amount of Rs.10,000/- awarded earlier in their favour was maintained. The appellate authority has also maintained the said decision.

Since the claim of the senior citizens has been declined by the statutory authorities by giving valid reasons, therefore, this Court does not find any ground to interfere with the said decisions.

Resultantly, petition fails and the same is dismissed.

(MANOJ BAJAJ)
JUDGE

04.05.2023
vanita

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