

104

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

**CWP-6756-2023 (O&M)
Date of Decision: 12.04.2023**

Deepak

.. Petitioner

Vs.

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jasminder Singh Thind, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

CM-5929-CWP-2023

Application is allowed, as prayed for. Annexures P-11 and P-12 are taken on record.

CWP-6756-2023

Petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ of Certiorari to challenge the decision dated 15.12.2022 (Annexure P-8) passed by Addl. District Magistrate-cum-District Magistrate, Amritsar, whereby while accepting the appeal filed by senior citizen-respondent No.3, it has modified the decision dated 14.03.2022 (Annexure P-6) passed by Sub-Divisional Magistrate-II, Amritsar and cancelled the transfer deed.

Learned counsel submits that the respondent No.3-Malti being grand-mother of petitioner had executed transfer deed dated 18.04.2019 to transfer her rights in the immoveable property measuring 150 sq. yards situated at Gali No.5, Jora Phatak Jaj Nagar, Dharampura, Amritsar in favour of the petitioner. He submits that the said property was transferred

before the death of petitioner's father, namely, Jatinderpal, who died on 10.10.2020. Learned counsel has drawn the attention of the Court to the order dated 14.03.2022 passed by the Sub-Divisional Magistrate-II, Amritsar and submitted that while declining the relief relating to the cancellation of transfer deed, it has been held that the petitioner served his grand-mother, therefore, awarded only monthly maintenance of Rs.3,000/-. Mr. Thind, learned counsel submits that against this decision, the senior citizen preferred appeal and the same has been accepted by the Addl. District Magistrate-cum District Magistrate, Amritsar through the impugned decision dated 15.12.2022 without even referring to the merits of the case or hearing the petitioner. He submits that the impugned *ex parte* order is bad in law and deserves to be set aside.

Upon hearing the learned counsel and examining the impugned order dated 15.12.2022, it becomes clear that the appellate authority simply notices the nature of relief granted to the senior citizen in the impugned decision dated 14.03.2022 and proceeded to accept the appeal on the sole ground that the respondent has chosen not to contest the appeal. The impugned order passed by Addl. District Magistrate-cum District Magistrate, Amritsar is apparently non-speaking, therefore, is not sustainable.

Consequently, the impugned order 15.12.2022 (Annexure P-8) is set aside and the case is remitted back before the appellate authority for deciding it afresh after giving opportunity of hearing to both the parties.

Since this Court is only remanding the case before the appellate authority, therefore, at this stage, notice is not being issued to the senior citizen-Malti in order to avoid extra burden upon her, however, it shall be

open for the senior citizen to seek recalling of the order, in case, she feels that a prejudice has been suffered by her.

The parties are directed to appear before the appellate authority on 25.05.2023.

12.04.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No