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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15555-2020 (O&M)
Date of Decision: 16.01.2023

Tarlok Singh

.. Petitioner

Vs.

Bhajan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Khushbir Waraich, Advocate for the petitioner.

Mr. Satnam Singh Gill, Advocate
for respondent No.1.

Ms. Shivani Sharma, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing/recalling the impugned order dated 27.02.2020 (Annexure P-2) passed by the District Magistrate-cum-Appellate Authority, Gurdaspur, whereby maintenance awarded to Bhajan Singh vide order dated 04.02.2019 (Annexure P-1) was enhanced to Rs. 3500/- per month.

Learned counsel for the petitioner has argued that the respondent No.1-Bhajan Singh (father of the petitioner) had given 15 K-3M of his agricultural land in favour of petitioner-Tarlok Singh through sale deed dated 26.11.2013 and equivalent land was given to the other son, namely, Gurmit Singh. She has submitted that Bhajan Singh had three sons and two daughters and the claim was filed against two sons only, as his daughters were already married, whereas the third son Harjinder Singh had

died. According to her, in the claim, he had made two prayers i.e. for maintenance and for setting aside the transfer of land in favour of both the sons, but Sub Divisional Magistrate-cum-Tribunal, Gurdaspur accepted the claim partly by awarding him maintenance by directing both the sons to pay him monthly sum of Rs.2500/- each, but the appellate authority while upholding the claim of senior citizen modified it by enhancing the monthly amount of Rs.2500/- per month to Rs.3500/- per month. Learned counsel has argued that despite the transfer of 15K 3 Marlas of land each in favour of both the sons, respondent No.1-Bhajan Singh is still owner of land more than 15 kanals, as according to his application, he was owner of 6 acres of land. She further submits that in the absence of any evidence, much less relating to the claim of the respondent No.1 that he is unable to maintain himself, the Courts have exceeded their jurisdiction in accepting his prayer. She prays that the impugned orders be set aside.

The prayer is opposed by learned counsel, who has submitted that the impugned orders are based upon proper appreciation of material on record and considering the relation of the petitioner and the fact that 15 kanals 3 marlas of land each was transferred by father in favour of sons, the impugned orders do not warrant any interference.

At this stage, learned counsel for the petitioner has argued that since the father is presently residing with Gurmit Singh, therefore, the petitioner cannot be burdened with the maintenance part, as he is to take care of his family consisting of wife and two children and their growing needs.

Learned counsel for the parties have been heard and perused the material on record.

During the course of hearing, it is not disputed by learned counsel for the parties that respondent No.1 Bhajan Singh was 85 years old, when he filed the application under Sections 4 and 5 Maintenance and Welfare of Parents & Senior Citizens Act, 2007 on 19.06.2018, who presently is approximately 90 years old.

Learned counsel for the respondent No.1-Bhajan Singh states that for a long time his client has not contacted him and he is not aware of his present health condition.

After hearing the learned counsel for the parties and considering the above background, this Court finds that no doubt the father Bhajan Singh still owns agricultural land, but keeping in view his advanced age as well as the amount of monthly maintenance awarded in favour of senior citizen, this Court is not inclined to exercise the writ jurisdiction under Article 226 Constitution of India.

Dismissed.

16.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No