

204

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

CWP-21292-2016

Date of decision : 04.05.2023

Karam Singh**...Petitioner**

Vs.

State of Punjab and others**...Respondents**

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Pooja Chopra, Advocate
for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

Mr. A.S.Virk, Advocate
for respondent Nos.4 to 6.

MANOJ BAJAJ, J.

By means of this writ petition filed under Article 226 Constitution of India petitioner-senior citizen has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 10.06.2016 (Annexure P-2) passed by appellate authority-respondent No.2, whereby the order dated 08.06.2015 passed by Maintenance Tribunal-respondent No.3 rejecting his claim under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was upheld.

Learned counsel for the petitioner submits that the petitioner being owner of 92 kanals 10 marlas had transferred 74 kanals of land in favour of his four sons through transfer deed bearing No.3207 dated 21.12.2011, in equal shares i.e.1/4 the each and retained the remaining 18 kanals and 10 marla for himself. Learned counsel has pointed out that later, senior citizen filed an

application on 05.03.2014 under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for cancellation of this transfer deed, as the same was got executed from him by his sons by exercising fraud. Learned counsel has drawn the attention of the Court to the impugned order dated 08.06.2015 passed by Sub Divisional Magistrate, Zira and submitted that the claim of the senior citizen was declined by the statutory authority on the ground that he has enough land to maintain himself, but according to the learned counsel, the transfer deed was got forcibly registered from the senior citizen, therefore, the same deserves to be set aside. Ms. Chopra, learned counsel has argued that the appellate authority also without considering the merits of the case proceeded to uphold the decision dated 08.06.2015, and prays that the impugned orders passed by the authorities be set aside, and claim of senior citizen be allowed.

The prayer is opposed by learned counsel appearing on behalf of respondent Nos.4 to 6 who submitted that the orders passed by the authorities are based upon correct appreciation of material on record, and it is not at all a case of fraud, because the senior citizen had voluntarily divided the land amongst the four sons, who also kept a part of it for himself. Learned counsel submits that the brother of respondent Nos.4 to 6, namely, Nirmal Singh had committed suicide, who left behind suicide note (Annexure R-1), whereupon the petitioner was implicated as an accused in case FIR No.35 dated 31.03.2014 under Sections 306 and 120-B IPC at Police Station Makhu, District Ferozepur, and in this case, he remained in custody also. Learned counsel has further pointed out that the petitioner is residing separately with his sister. He submits that after the suicide by petitioner's wife, he started residing with some other lady and under her influence, the senior citizen initiated

proceeding against the sons under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

At this stage, Ms.Chopra, learned counsel for the petitioner has pointed out that in the criminal case, wherein petitioner remained in prison ended in his acquittal, and since the petitioner was neglected, therefore, he started residing with his sister. Apart from this, she states that the petitioner has also filed a civil suit for declaration to challenge the transfer deed and same is pending adjudication.

After hearing the learned counsel for the parties and examining the pleadings and material on record, this Court finds that the senior citizen invoked the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 on the ground of fraud relating to the execution of transfer deed dated 21.12.2011 in favour of his sons and prayed for cancellation of this instrument. Admittedly, the senior citizen has also filed a civil suit for declaration to challenge the transfer deed, which is pending adjudication before the Civil Court and this Court finds that the remedy of the civil suit is the only appropriate remedy to test the ground of fraud raised by the senior citizen. Further, the procedure for adjudication contained in The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is summary in nature, wherein authorities have returned the concurrent findings of fact that the senior citizen is not only residing separately from his sons, but is able to maintain himself. A perusal of the impugned order would show that the authorities have carefully examined the material on record while rejecting the claim of senior citizen and the said orders do not call for any interference by exercising jurisdiction under Article 226 Constitution of India.

Resultantly, the writ petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

04.05.2023
vanita

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