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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17978-2020 (O&M)

Date of Decision: 14.03.2023

BAKHTAWAR SINGH

.. Petitioner

Vs.

SUB DIVISIONAL MAGISTRATE CUM MAINTENANCE TRIBUNAL
AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vijay Lath, Advocate for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

Mr. Ashok Paul Batra, Advocate
for respondent No.2

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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 the order dated 15.10.2019 (Annexure P-2) passed by respondent No.1, whereby his claim under Section 23 Maintenance and Welfare of Parents and Senior Citizen Act, 2007 has been declined.

Learned counsel for the petitioner submits that the petitioner being a senior citizen raised his grievance of maltreatment against respondent No.2 (son) by moving an application under Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and sought his eviction, but through the impugned decision dated 15.10.2019, the claim by senior citizen has been rejected. He submits that the property in question is owned by the petitioner and he has an absolute right to use it in the manner the

senior citizen likes, but the statutory authority has failed to appreciate the

petitioner's claim in a proper manner and it has resulted miscarriage of justice to him. He prays that the impugned order be set aside.

On the other hand, learned counsel for the respondent No.2 has argued that the case of the petitioner has not been decided on merits by the Addl. Deputy Commissioner-cum-Appellate Tribunal, Rupnagar, as the senior citizen filed the application straightway before the appellate Court instead of approaching the Court of SDM, Sri Anandpur Sahib/Civil Court. Learned counsel has drawn the attention of the Court to the impugned order dated 15.10.2019 to point out that the appellate authority has rejected the petitioner's application on the ground that he should have approached the Sub-Divisional Magistrate, Sri Anandpur Sahib. He prays that the writ petition be dismissed.

After hearing the learned counsel for the parties and examining the impugned order, this Court finds that the entire claim of the senior citizen is based upon vague averments, who has failed to give details of any of the properties mentioned in his application and noticed in the impugned decision.

During the course of hearing, learned counsel for the petitioner was asked to produce the copy of the application filed by the senior citizen before the Deputy Commissioner-cum-Appellate Tribunal, Rupnagar, but he has stated that the copy of the said application is not available with him. The facts noticed in the impugned order by the Addl. Deputy Commissioner-cum-Appellate Tribunal, Rupnagar make it clear that the senior citizen has condemned his son on all possible grounds and sought his eviction. Further, as per his own stand, the property inherited by the son was ancestral in nature, which was transferred by the petitioner's father during

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his life time in favour of the grandson. Apart from it, as the claim of the petitioner has not been decided on merits, therefore, this Court is not inclined to exercise the extra ordinary writ jurisdiction under Article 226 Constitution of India.

Petition is dismissed.

14.03.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No