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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21584-2020 (O&M)
Date of Decision: 08.05.2023

ANGREJ KAUR

.. Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Manpreet Kaur, Advocate and
Mr. R.S. Sidhu, Advocate
for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

Mr. Abhinav Singla, Advocate
for respondent No.5.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed under Article 226 Constitution of India for issuance of a writ of Certiorari for quashing the impugned order dated 25.08.2020 (Annexure P-1) passed by respondent No.2, whereby the order dated 25.10.2019 (Annexure P-3) passed by respondent No.3 was set aside and the case was remanded back to decide afresh on merits after giving proper opportunity to the parties to lead evidence.

Learned counsel for the petitioner submits that the petitioner Angrej Kaur (senior citizen) lost her husband Kartar Singh on 17.11.2014 and applied for maintenance under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against her son, namely, Pritam Singh-respondent No.5, who got transferred land owned by her husband in his favour. Learned counsel has pointed out that after transfer of this immoveable

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property in favour of her son, she was left with no source of income, much less any land and prayed that the instrument be cancelled, however, vide order dated 08.10.2015 (Annexure P-2), the respondent No.5 was directed to pay a monthly maintenance of Rs.15,00/- p.m. to his mother. Learned counsel has pointed out that since this order was not complied with, therefore, the petitioner preferred execution wherein the executing Court vide its order dated 25.10.2019 cancelled the transfer deed dated 13.12.2011 with an observation that the property would be shared by the legal heirs of Kartar Singh in equal shares. Learned counsel has further submitted that the order dated 25.10.2019 is a reasoned order, therefore, the appellate authority has exceeded its jurisdiction in setting aside the same and remanded the case back before the executing Court to decide it afresh. Learned counsel submits that the order dated 08.10.2015 is clear that the maintenance is being awarded from the income derived from the land transferred in favour of respondent No.5, wherein it was also held that in case, the maintenance is not paid, then appropriate action would be taken against him under this act. She prays that the impugned order be set aside.

The prayer is opposed by the learned counsel for the respondent No.5, who has argued that once the order dated 08.10.2015 only awards maintenance in favour of the senior citizen, the executing Court could not have ordered cancellation of the transfer deed dated 13.12.2011. He submits that son (respondent No.5) had been paying the maintenance regularly to the mother and only for a short period, he could not make the payment of maintenance, as there was a domestic dispute. He submits that the appellate Court has carefully examined the material on record as well as the nature of the impugned order while setting it aside and remanding it

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back before the executing Court to pass a fresh order. He prays that the writ petition be dismissed.

After hearing the learned counsel for the parties and considering the material on record, this Court finds that the transfer deed dated 13.12.2011 relating to the land in question was executed by Kartar Singh, husband of the petitioner and during his life time, he never raised any grievance in respect of this transfer. Further, once the order dated 8.10.2015 has extended a limited relief to the senior citizen i.e. monthly maintenance and it was never challenged by the senior citizen to press her claim for cancellation of the instrument dated 13.12.2011, the executing Court exceeded its jurisdiction in moulding the relief. A perusal of the impugned order passed by the appellate Court shows that it has carefully examined the material on record while accepting the appeal against the impugned order dated 25.08.2020 and remanding it before the executing Court for deciding afresh.

Resultantly, this Court is not inclined to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

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Jasmine Kaur

Whether speaking/reasoned Yes No
Whether reportable Yes No

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