

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

**CM-6562-CWP-2023 in/and
CWP-22578-2021 (O&M)
Date of decision : 08.05.2023**

Jaspreet Singh

...Petitioner

Vs.

**Sub Divisional Magistrate,
Dera Bassi and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kanwaljeet Singh, Advocate
for the applicant/petitioner.

None for the respondents.

MANOJ BAJAJ, J.

CM-6562-CWP-2023

The applicant-petitioner vide application bearing No. CM-6562-CWP-2023 has sought pre-ponement of the case on the ground that the senior citizen has got the electricity disconnected from the property in question, which was transferred in favour of the grandson-petitioner, where his father-Harvinder Singh is running a welding shop.

Heard the learned counsel for applicant-petitioner.

The advance copy of this application was supplied to learned counsel for respondent No.2 on 17.04.2023, however, on 28.04.2023 when the application was listed, the learned counsel for the

respondent No.2 failed to put an appearance, though his name reflected the cause list. Today, again no one has chosen to put in appearance on behalf of respondent No.2/non-applicant, despite his name is shown in the cause list as well as on the display boards. This shows that the respondent No. 2 is trying to delay the adjudication of this case.

Considering the application, the same is allowed and the date of hearing is pre-poned today.

Main case

Petitioner-Jaspreet Singh has filed this writ petition under Article 226 Constitution of India for issuance of writ in the nature of Certiorari seeking quashing of the order dated 22.07.2021 (Annexure P-14), whereby the Sub Divisional Magistrate, Dera Bassi has cancelled the transfer deed dated 04.11.2019 (Annexure P-2) executed by respondent No.2 in favour of the petitioner.

Learned counsel submits that the respondent No.2-Krishan Pal, who is petitioner's grand-father had voluntarily executed transfer deed dated 04.11.2019 (Annexure P-2), and transferred his immovable property in favour of his grandson-Jaspreet Singh (petitioner). He submits that subsequently the grand-father moved an application dated 23.11.2020 (Annexure P-1) under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and prayed for cancellation of this instrument on the ground that the grandson is not taking care of his

needs and basic necessities and the said claim was contested by the petitioner by filing a detailed reply. Learned counsel has drawn the attention of the Court to the reply Annexure P-3 and highlighted that at the stage of transfer, the grandson was student of B.Com (Second year) and was not having any source of income. Apart from this, it was pleaded that the expenses incurred upon the treatment of senior citizen at Kapoor Hospital, Ambala were borne by Harvinder Singh (father of the petitioner) and even after operation, he is being given proper care and attention. Learned counsel submits that the senior citizen has three sons and a daughter, but the senior citizen has wrongly moved this application against the grandson, as prior to the filing of this application, he had raised a similar claim against his three sons through application dated 10.10.2019, wherein the senior citizen sought cancellation of transfer deed executed by him on 25.07.2019 in favour of his sons, and the Sub Divisional Magistrate, Dera Bassi vide his order dated 10.12.2020 (Annexure P-7) instead of cancelling the transfer deed awarded him maintenance of Rs.18,000/- per month, to be shared by his sons equally i.e. Rs.6,000/- each. Learned counsel has pointed out that said order is under challenge by way of a separate CWP No. 18078 of 2022 filed by Harvinder Singh. He submits that once the order of maintenance was already in favour of the senior citizen, the claim filed against the petitioner on 23.11.2020 is

apparently baseless and prays that the impugned decision be set aside and the application filed by the senior citizen be dismissed.

The notice of motion was issued in this case on 15.11.2021 subject to deposit of Rs. 50,000/- to respondent No.2 and in compliance of the said order, the amount was paid by the petitioner. Further the written statement on behalf of respondent No.2 was filed, and thereafter, the matter was adjourned to 11.07.2023.

After hearing learned counsel and considering his submissions, this Court finds that the petitioner has categorically pleaded in para 5 of the writ petition that his grandfather-senior citizen had previously moved an application on 10.10.2019 against petitioner's father-Harvinder Singh as well as his two brothers and vide order dated 10.12.2020 (Annexure P-7), Sub Divisional Magistrate, Dera Bassi awarded him maintenance of Rs. 18,000/- per month, to be equally shared by three sons of senior citizen i.e. Rs.6,000/- each, and the contents of this paragraph have been admitted by the senior citizen in his written statement dated 09.01.2023. Thus, this Court has no hesitation in holding that the senior citizen by deliberately concealing pendency of his previous claim, once again invoked the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against petitioner-grandson and even during the pendency of the application, he did not bring into the notice of the maintenance

Tribunal, that vide order dated 10.12.2020, he has already been awarded monthly maintenance of Rs. 18,000/-. Besides, the record of the case reveals that the senior citizen firstly executed transfer deed in favour of his sons on 25.07.2019 and sought cancellation of the same through application dated 10.10.2019 and few days thereafter he executed transfer deed in favour of the petitioner on 04.11.2019 and at that stage, the petitioner was a student having no source of income. The previous application filed by senior citizen stood allowed vide order dated 10.12.2020 i.e. few days before he had filed the application on 23.11.2020 against the petitioner and the averments relating to neglect and lack of maintenance on the part of grandson do not seem to be truthful, in the peculiar facts and circumstances of this case. Further, a reading of the impugned decision 22.07.2021 (Annexure P-14) shows that the material concealment of facts by the senior citizen was highlighted on behalf of the petitioner by pointing out that his father Harvinder Singh is already paying him Rs. 6,000/-, but the Sub Divisional Magistrate, Dera Bassi without even referring to the said averments accepted the application and cancelled the transfer deed dated 04.11.2019.

Resultantly, this Court has no hesitation in holding that the impugned order is not sustainable, therefore, the same is set aside.

The petition is allowed.

Since the senior citizen had mislead the maintenance Tribunal by concealing the material facts, therefore, the amount of Rs.50,000/- ordered to be deposited by the petitioner at the stage of notice of motion is directed to be refunded back to the petitioner.

As the writ petition has been decided on merits, this Court is not inclined to entertain the other applications seeking impleadment of electricity department on the issue of disconnection of electricity connection, as in this regard the petitioner may avail his appropriate alternative remedy in accordance with law.

(MANOJ BAJAJ)
JUDGE

08.05.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No