

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.29928 of 2022

Date of Decision: January 11, 2023

Gurjit Singh

...Petitioner

Versus

District Magistrate, Fatehgarh Sahib & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Jagmeet Singh Moudgill, Advocate,
for the petitioner.

Mr.Vikram Preet Arora, Advocate,
for respondent No.2.

MANOJ BAJAJ, J.

Petitioner-Gurjit Singh has filed this petition under Article 226 Constitution of India seeking writ in the nature of certiorari for quashing the order dated 19.10.2022 (Annexure P-6), passed by Appellate Authority Maintenance-cum-District Magistrate, whereby the order dated 16.08.2022 (Annexure P-4) passed by the Maintenance Tribunal reversing the transfer of title of immovable property by respondent No.3-father in favour of petitioner-son, was affirmed.

Learned counsel for the petitioner has argued that respondent No.3-Gulzar Singh filed a petition under Sections 4, 5, 9 and 23 Maintenance and Welfare of Parents and Senior Citizen Act, 2007 against the petitioner-son alleging that he is not maintaining him, but the said averments contained in the application were not worth acceptance as by virtue of family settlement dated 24.05.2021 (Annexure P-1), it was agreed

by the father that he would be maintained and taken care of by his brother Palwinder Singh. In this regard, he has invited the attention of the court to the family settlement and highlighted the specific recital/arrangement between the parties, whereby it was agreed that Gulzar Singh along with his wife Sukhdev Kaur will reside with third party, i.e., Palwinder Singh, therefore, it is not his obligation to maintain the parents. He further submits that the title of the immovable property measuring 26 bighas 13 biswas was voluntarily made by Gulzar Singh in favour of the petitioner, and equivalent other half of the property measuring 26 bighas 13 biswas was also transferred in favour of Palwinder Singh vide transfer deed dated 29.09.2016. According to learned counsel, the arrangement between the parties was not examined by the Maintenance Tribunal while setting-aside the transfer deed, therefore, the impugned decisions passed by the Appellate Authority as well as the Maintenance Tribunal deserve to be set-aside.

At this stage, Mr.Vikram Preet Arora Advocate appears on behalf of respondent No.3-Gulzar Singh and submits that the reply filed by the petitioner to the application filed by respondent No.3 contains his stand in writing contained in para 18 that he is not duty bound to maintain the senior citizen in view of the terms and conditions of the family settlement. According to him, it is the conduct of the petitioner which compelled the father to seek remedial measures under The Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Learned counsel has also pointed out that the similar application filed by Gulzar Singh against other brother Palwinder Singh is also pending adjudication as he too neglected his father. He submits that statutory authorities have carefully examined the material

before accepting the claim of the father and the title of the land has been rightly reverted back in favour of Gulzar Singh. He prays for dismissal of the petition.

At this stage, learned counsel for the petitioner submits that the son is ready and willing to maintain his father and he has no objection if he resides with him.

After hearing the learned counsel for the rival parties and considering their submissions, this court finds that Gulzar Singh was absolute owner of 53 bighas 6 biswas of land, which was distributed by him in favour of his two sons in equal shares and consequently became dependent upon them during his own life time.

During the course of hearing, learned counsel for the petitioner has produced the copy of transfer deed dated 29.09.2016 and a perusal of the same reveals that father transferred his entire holdings in favour of his two sons on account of love and affection as well as the good services provided by them. Apart from it, the family arrangement arrived at between the father and two sons does contain this arrangement that the parents henceforth would reside with Palwinder Singh, but it cannot be construed that it would absolve petitioner Gurjit Singh from his moral duty to maintain his parents. A reading of this family arrangement would also show that even the ancestral house was also divided by the two sons in equal shares leaving the parents without any property, who are at the mercy of their sons.

This case has exposed the pathetic social change, as these cases are increasing day-by-day which compelled the Government of India to promulgate such an Act in order to protect the senior citizens at the advanced stage.

The assertion made by the learned counsel for the petitioner that he is ready to maintain his father shows his true colour, who after inheriting father's property in his life time neglected him, and when by virtue of the law, the said property is reverted back to the father, he is again trying to show himself to be an obedient son, therefore, such a conduct of petitioner is not worth belief. Further, upon examining the impugned decisions, this court finds that the Maintenance Tribunal as well as the Appellate Authority have exercised their jurisdiction in accordance with law, and these decisions do not suffer from any procedural defect, thus, no case for judicial review is made out.

Dismissed.

January 11, 2023
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No