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

CWP-2213-2024
Date of decision: 02.02.2024

Jagsir Singh

...Petitioner

Versus

Appellate Tribunal-cum-District Magistrate Sangrur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Janak Singh Bhinder, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the orders dated 22.08.2023 (Annexure P-1) and 05.12.2022 (Annexure P-2) passed by respondent Nos.1 and 2 respectively under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as “the 2007 Act”), whereby respondent No.2 has directed the petitioner to deposit Rs.5000/- per month as maintenance and respondent No.1 has dismissed the appeal filed from the same.
2. Brief facts of the present case are that respondent No.3 who is a senior citizen and father of the petitioner had filed an application before the Maintenance Tribunal under the 2007 Act with the averments that respondent No.3 had transferred the land measuring 6 kanals 5 marlas situated in Village

Toorbanjara, Tehsil Dirba, District Sangrur in favour of the petitioner. It was further stated that the petitioner had stopped taking care of his father as well as his ailing mother and used to harass and beat respondent No.3 as well as his wife. It was further averred that respondent No.3 and his wife were old and were not able to meet their expenses of life and thus, necessary relief under Section 23 of the 2007 Act be provided to them. Notice was issued by the Maintenance Tribunal to the present petitioner who appeared before the Maintenance Tribunal and sought adjournments on 27.10.2022 and on 07.11.2022 for filing reply as has been recorded in the order dated 05.12.2022 (Annexure P-2) but thereafter, petitioner did not come to the Court and did not file any reply and thus, pleas which were raised by respondent No.3 were not disputed or rebutted. The Maintenance Tribunal had partly allowed the case vide order dated 05.12.2022 and awarded an amount of Rs.5000/- per month as maintenance to respondent No.3 and directed the petitioner to deposit the same in the bank account of respondent No.3, by 10th of every month, which was mentioned in the order dated 05.12.2022. The said order was passed while exercising the powers under Section 5(2) of the 2007 Act and the Maintenance Tribunal had observed that on seeing respondent No.3, the Tribunal was of the opinion that respondent No.3 was very old aged person and had further observed that neither respondent No.3 could look after himself nor he could do any work in order to earn his livelihood. The said view taken was a very lenient view inasmuch as the transfer deed with respect to transfer of land measuring 6 kanals 5 marlas in favour of the petitioner was not cancelled. The petitioner thereafter filed an appeal before the Appellate Tribunal and the Appellate Tribunal vide

order dated 22.08.2023 (Annexure P-1) dismissed the said appeal. A perusal of the said order would show that apart from the fact that the appeal was filed after much delay, learned counsel for the petitioner had initially appeared and thereafter in spite of specific directions, did not argue the matter on 10.08.2023 and also on 22.08.2023 whereas respondent No.3 appeared on each and every date. Left with no other alternative, the Appellate Tribunal had decided the appeal in the absence of the petitioner and observed that non-appearance of the petitioner, after having filed the appeal, showed that the petitioner had filed the appeal only to harass respondent No.3 who was very old aged person and could not look after himself nor was able to do work in order to earn his livelihood. The petitioner aggrieved with the said two orders, has filed the present writ petition.

3. Learned counsel for the petitioner has raised two pleas to challenge the impugned orders. It is submitted that respondent No.3 had transferred land measuring 9 marlas in the name of Gursewak Singh who is his grandson on 27.05.2020. It is also submitted that the petitioner had also transferred land measuring 11 marlas in the name of respondent No.3 on 06.11.2019 and on account of the said two facts, the impugned orders passed deserve to be set aside.

4. This Court has heard learned counsel for the petitioner and has perused the paper book.

5. The fact that respondent No.3 (father of the petitioner) is a senior citizen has not been disputed before this Court. Even the fact that respondent No.3 had transferred land measuring 6 kanals 5 marlas has not been disputed. The finding of both the authorities to the effect that

respondent No.3 is very old and infirm and is not able to do any work in order to earn livelihood for himself and his wife's subsistence, has not been disputed. Neither any reason has been given as to why once the petitioner had appeared before the Maintenance Tribunal and had sought time to file reply on 27.10.2022 and 07.11.2022 he stopped appearing before the Court nor any reason has been given as to why after filing the appeal, the petitioner did not appear before the Appellate Tribunal in spite of specific directions. The pleas raised by respondent No.3 with respect to his ill health, old aged and not able to do work in order to earn his livelihood and also on the aspect of the petitioner harassing and given beating to respondent No.3 and his wife, have gone un rebutted as no reply has been filed to the said averments. Nothing has been produced on record by the petitioner to show that the petitioner being son has ever taken care of his father (respondent No.3) or has ever given any money to respondent No.3 to look after him. On a pointed query raised, learned counsel for the petitioner has submitted that even the amount of Rs.5000/- per month which has been awarded vide order dated 05.12.2022 and has been upheld by the Appellate Tribunal vide order dated 22.08.2023, has not been paid to respondent No.3. In the said circumstances, very lenient view has been taken by both the authorities in only awarding an amount of Rs.5000/- per month as maintenance instead of cancelling the transfer deed of land measuring 6 kanals and 5 marlas which respondent No.3 had transferred in favour of the present petitioner.

6. Two arguments raised by learned counsel for the petitioner are completely baseless and deserve to be rejected. Firstly, the plea with respect to transfer of land measuring 9 marlas by respondent No.3 in favour of his

grandson namely Gursewak Singh on 27.05.2020 as well as other plea of petitioner transferring land measuring 11 marlas on 06.11.2019, as admitted, has not been taken before the Maintenance Tribunal as no reply was filed before them. Even before this Court, there are no documents annexed in support of the said arguments/averments. It would be relevant to note that respondent No.3 had transferred the land measuring 6 kanals 5 marlas in favour of the petitioner and thus, even if any transfer of land measuring 11 marlas was made by the petitioner on 06.11.2019 in favour of respondent No.3, same would not further the case of the petitioner. The land transferred by respondent No.3 was much more than the land which the petitioner is now alleging that he has transferred in favour of respondent No.3. Moreover, merely the fact that respondent No.3 might have transferred land measuring 9 marlas in the name of his grandson would also not in any way entitle the petitioner to not look after his old aged parents as it is the duty of the son to take care of his old aged parents even in case no land has been transferred by the parents in favour of the son. In the present case, admittedly, respondent No.3 had even transferred land measuring 6 kanals 5 marlas in favour of the petitioner.

7. Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is meritless and deserves to be dismissed and is accordingly, dismissed.

02.02.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No