



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
112 LPA-1283-2024 (O&M)
Date of decision: 23.05.2024
GULZAR SINGH ...Appellant
VERSUS
STATE OF PUNJAB AND OTHERS ...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Dr. Payel Mehta, Advocate
for the appellant.

DEEPAK SIBAL, J.(ORAL)

1. The instant intra court appeal arises out of judgment dated 19.03.2024 passed by a learned Single Judge of this Court dismissing the writ petition filed by the appellant through which he had challenged order dated 17.10.2023 passed by the Additional Deputy Commissioner-cum-Collector, SAS Nagar, Mohali (for short - Collector) and order dated 27.03.2023 passed by the Sub-Divisional Magistrate, Derabassi (for short – SDM).
2. The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that through transfer deed dated 14.06.2017 (for short – the deed) respondent No.4, who is the appellant’s mother, transferred half share each in the property in question in favour of the appellant and respondent No.5, who is the appellant’s brother. In the deed, it was specifically mentioned that the beneficiaries under the deed,



shall provide basic needs to the transferor and if they failed to do so, then as per Section 23 (2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short – the 2007 Act), the deed shall stand cancelled.

3. In October, 2022, respondent No.4 filed an application before the SDM seeking therein cancellation of the deed on the ground that after the transfer, the transferees were not taking care of respondent No.4 and were also not fulfilling any of her basic needs. The SDM sought a report from the Tehsildar and on receipt of the same, the SDM found merit in respondent No.4's application. Accordingly, the SDM ordered cancellation of the deed.

4. The appellant filed an appeal before the Collector, who after hearing learned counsel for the contesting parties and going through the record concurred with the order appealed against resulting in dismissal of the appellant's appeal.

5. The appellant then petitioned this Court to challenge therein the orders of the SDM and the Collector. Learned counsel appearing for the appellant submitted before a learned Single Judge of this Court that there was nothing on the record that which of respondent No.4's basic needs were not being fulfilled particularly when she was in receipt of ₹ 15,000/- per month as rent as also getting monthly pension of ₹ 1,500/- which amounts were enough to cater to all her basic needs. It was further submitted that the application filed by respondent No.4 was actuated by mala fide as the same was at the instance of the appellant's brother-Jasbir Singh who had eyes on the property transferred under the deed.

6. The learned Single Judge concluded that the submissions made by the appellant with regard to receipt of rent and pension by respondent



No.4 were not supported by any evidence and that the appellant had also failed to show as to what efforts had been made by him to provide basic needs to respondent No.4. The learned Single Judge further referred to the pleadings before the SDM to hold that the appellant used to badly treat respondent No.4 and also fight with her. Accordingly, the appellant's writ petition was dismissed.

7. Learned counsel appearing for the appellant assails the impugned judgment by submitting that in the deed, respondent No.4 has specifically stated that the appellant and respondent No.5 have been good sons and therefore, she was transferring her property to them; there was nothing on record to show that the appellant had, after execution of the transfer deed treated respondent No.4 badly; respondent No.4 was in receipt of monthly rent @ ₹ 15,000/- and monthly pension of ₹ 1,500/- which was taking care of all her basic needs and that respondent No.4 had also not brought on record as to which of her basic needs were not being catered to by the appellant.

8. The submissions made on behalf of learned counsel for the appellant have been considered.

9. It is not disputed that at the time of executing the transfer deed dated 14.06.2017, respondent No.4 was the owner of the property which was transferred through the said deed and that at that time respondent No.4 was a senior citizen. A perusal of the transfer deed further reveals that the transfer was made with a specific condition that its beneficiaries, which includes the appellant, shall, in lieu of the transfer, provide basic needs to respondent No.4 and that if they failed to do so, then in terms of Section 23 (2) of the 2007 Act, the transfer deed shall stand cancelled.



10. In the light of the afore admitted facts, we shall now consider as to whether there is any error, in fact or in law, in the impugned judgment rendered by the learned Single Judge.

11. After going through the report of the concerned Tehsildar and the record before him, the SDM allowed respondent No.4's application after *inter-alia* concluding that after the execution of the transfer deed the appellant used to fight with respondent No.4-his mother and treat her badly. The Collector and the learned Single Judge have concurrently upheld these findings. Nothing has been placed on the record or even argued to persuade us to hold otherwise.

12. The submission made on behalf of the appellant that receipt of rent and pension by respondent No.4 were fulfilling her basic needs and therefore, the plea taken by her that her basic needs were not being taken care of was false, deserves to be considered only to be rejected as there is nothing placed on the record by the appellant to show that respondent No.4 was in actual receipt of the aforesaid rent and pension. Even if it is assumed that respondent No.4 was in receipt of the said rent and pension, it does not prove that the received amount was enough to fulfill all her basic needs and that which of respondent No.4's basic needs were being provided for by the appellant has neither been pleaded nor even on his behalf been submitted before us.

13. In June, 2017 respondent No.4, as a doling mother, transferred her property in favour of two of her sons which included the appellant. In lieu of the transfer, she only expected fulfillment of her basic needs. Till the transfer of respondent No.4's property, the appellant behaved like a good son but it seems that as soon as respondent No.4's property was transferred



to him, his attitude towards respondent No.4 changed. Unfortunately, the change was not for the better. Respondent No.4 had transferred her property to the appellant with the only hope of getting in return respect, affection and fulfillment of her basic needs. Apparently, she received none.

14. In light of the above discussion, we are not inclined to interfere with the impugned judgment.

15. Dismissed.

16. All pending miscellaneous application(s) also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

May 23, 2024

Nisha Yadav

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No