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2024:PHHC:097659-DB



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

LPA-1280-2024 (O&M)

Date of decision : 22.05.2024

Prakash Singh and another

...Appellants

Vs.

Sub Divisional Magistrate Sangrur- cum-Maintenance Tribunal and others

...Respondents

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

Present: Mr. Shoryaveer Vashist, Advocate for the appellants.

DEEPAK MANCHANDA, J.

1. Through this intra-court appeal, the appellants have assailed the judgment dated 04.04.2024 vide which the learned Single Judge dismissed the writ petition filed by the appellants where the prayer was made for quashing of the orders dated 20.09.2021 (Annexure P-1) and 30.11.2021 (Annexure P-2) passed by respondent Nos.1 and 2.

2. The outlined facts of the present case are that respondent No.3 is father of appellant No.1, who filed an application dated 18.03.2021 under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as “the 2007 Act”) for setting aside the transfer deed dated 23.08.2017, which was executed by him in favour of appellant No.1 in respect of land measuring 34 kanals 8 marlas and transfer deed dated 12.10.2017 vide which appellant No.1 had further transferred 32 kanals 7 marlas out of the above land to his wife i.e. appellant No.2. The said transfer

was made in favour of appellant No.1 on the condition that respondent No.3 who is father of appellant No.1 would render all the services to respondent No.3 during his lifetime and would provide meals, clothing etc. with the assurance that he would not misappropriate the land, which was transferred in his favour. Accordingly, on the basis of assurances given by the appellants, aforesaid transfers were made in favour of appellant No.1 without taking any money, but after sometime behaviour of appellants as well as their son was changed towards respondent No.3, who stopped maintaining him. Respondent No.3 pleaded that to misappropriate the property, the same was transferred by appellant No.1 in favour of appellant No.2, who is his wife vide transfer deed dated 12.10.2017. Respondent No.3 prayed that transfer deed executed in favour of appellants be cancelled as appellants failed to maintain him despite the conditional transfers. Aggrieved by the same, respondent No.3 filed an application before respondent No.1 under Section 23 of the Act, 2007, which was allowed vide order dated 20.09.2021 (Annexure P-1) and the same was challenged by the appellants before the respondent No.2, which was also dismissed vide order dated 30.11.2021 (Annexure P-2) and the order passed by respondent No.1 dated 20.09.2021 was affirmed where the application filed by the respondent No.3 was allowed on the ground that appellants did not honour the commitment regarding maintaining respondent No.3 and had given beatings, ultimately who was thrown out of his own house. Such conduct resulted in passing of favourable order qua respondent No.3. Aggrieved against the said orders, the appellants filed the writ petition, which was dismissed vide impugned judgment dated 04.04.2024.

3. Learned counsel for the appellants contends that the learned Single

Judge did not appreciate the fact that the appellants were always ready and willing to take care of respondent No.3 and instance of non-maintaining respondent No.3 is not proved on record rather respondent No.3 is being influenced by his other sons i.e. brothers of appellant No.1 for cancellation of transfer deed as both retired from government departments and they are not happy with the transfer of properties made in their favour.

4. We have heard learned counsel for the appellants and have perused the material available on record.

5. The perusal of impugned judgment would show that learned Single Judge after appreciating the material as well as orders passed by the respondent Nos.1 and 2 concluded that the property in dispute is owned by respondent No.3. The transfer deed was executed in favour of appellant No.1 on the condition that appellants would maintain respondent No.3 during his lifetime by providing meals, clothing, medicine etc. and would not misappropriate the land gifted by respondent No.3 to them. After noticing the conduct of appellants towards respondent No.3 where appellants failed to maintain and relying upon the orders passed by respondent Nos.1 and 2 where the said fact was duly established, the learned Single Judge dismissed the writ petition filed by appellants in the light of Section 23 of the 2007 Act. The findings given by learned Single Judge are reproduced here below:-

“6. It is not in dispute that respondent No.3 is a senior citizen and was 92 years of age in the year 2021 when the application under Section 23 of the 2007 Act was filed. The said fact had been specifically pleaded in para 1 of the application (Annexure P-3) and had not been denied in the written statement (Annexure P-4) and rather the averments in para 1 of the application were stated to be correct. The fact that the property was in the name of respondent No.3 and he was owner of the same has not been disputed before

this Court. Even the fact that transfer deed dated 23.08.2017 was made by respondent No.3 in favour of petitioner No.1 on the condition that the petitioners would render all the services to respondent No.3 during his lifetime and provide meals, clothing, medicines etc. to respondent No.3 and would not misappropriate the land, has not been disputed. Moreover, the said pleadings have been specifically made in para 4 of the application and the pleadings to the said effect have not been disputed. It is the case of respondent No.3 that the petitioners have not taken care of him and have not provided him with meals, clothing and medicines etc. and have not maintained him also. In the order dated 30.11.2021 passed by the Appellate Court, it is the stand of respondent No.3 (at page 36 of the paper book) that he has been thrown out of the house after having been given beatings by the petitioners. During the course of arguments, it has not been disputed that respondent No.3 is not residing with the petitioners and is residing with Baldev Singh. There is nothing on record to show that any money was transferred by the petitioners to respondent No.3 for his maintenance or for meeting his basic needs. A perusal of order dated 20.09.2021 (Annexure P- 1) (at page 28 of the paper book) would show that the conduct of petitioner No.1 and even his son was abominable towards respondent No.3 even before the Sub Divisional Magistrate and during the course of the proceedings (in third para of page 28, there is a slight mistake in the translation inasmuch as the vernacular at page 43 of the paper book would clearly show that it has been recorded in the said order that Parkash Singh petitioner No.1 and his son had a quarrel and talked loudly with respondent No.3 (petitioner therein) in front of the Tribunal). The fact that petitioner No.1 had transferred land measuring 32 kanals 7 marlas out of the total land measuring 34 kanals 8 marlas in favour of his wife i.e. petitioner No.2 within a period of three months from the date respondent No.3 had transferred the property in favour of petitioner No.1 also clearly shows the mala fide intent of the petitioners to usurp the property of respondent No.3 and not to adhere to the conditions of the transfer deed as had been detailed in para 4 of the application. Thus, the plea raised by the petitioners that they are now ready to take care of respondent No.3 and are now ready to pay monthly maintenance is apparently an afterthought and only to keep the property transferred by respondent No.3 in favour of petitioner No.1. Both the authorities have, after duly considering the matter, correctly allowed the application filed under Section 23 of the 2007 Act and this Court finds no reasons to interfere in the said orders passed by the authorities.”

6. We have perused the impugned judgment and are in agreement with the observations made by learned Single Judge and have found no illegality in the same.
7. In the light of above, no interference is called for. Consequently, the present intra-Court appeal is dismissed.
8. Since the main case is dismissed, pending application(s), if any, have also rendered infructuous.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

22.05.2024

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