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AT CHANDIGARH

Date of Decision : February 06, 2025

.. Petitioners

Versus

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Malik, Advocate, for applicant-respondent No.1.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present review application, the review of the order dated 07.01.2025 (Annexure A-1) is being sought by applicant/respondent No.1- senior citizen on the ground that qua the dispute inter se between respondents No. 1 and 2 which related to an application filed by respondent No.1- senior citizen under the Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred as '2007 Act') hence, the petitioners had no locus to challenge the same once, an order dated 10.11.2022 (Annexure P-4) has been passed by the authorities concerned under 2007 Act granting relief to respondent No.1- senior citizen which was claimed against respondent No.2 only.

2. Learned counsel for the review applicant/respondent No.1-senior citizen submits that the issue being raised by the petitioners is that



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they had purchased the land in question from the father of respondent No.2 in the year 2009 but no such document has been placed on record to prove the same and therefore, the order passed in favour of review/applicant-respondent No.1- senior citizen by the authorities concerned could not have been set aside so as to decide the issue afresh.

3. I have heard learned counsel for the review applicant/respondent No.1- senior citizen and have gone through the record with his able assistance.

4. It may be noticed that the order dated 07.01.2025 (Annexure A-1) was passed in open Court in the presence of the parties concerned including the review applicant/respondent No.1- senior citizen. Once, no such argument was raised that the petitioners have failed to bring on record the sale deed in their favour purported to have been executed by the father of respondent No.2 namely Rajesh Kumar, the same was not adjudicated upon.

5. Further, no finding has been given by this Court whether the land in question has been purchased by the petitioners from the father of respondent No.2 or not but the case has only been remanded back on the ground that once the petitioners were impleaded as respondents by the review applicant/respondent No.1- senior citizen herein while raising the claim under Section 23 of the 2007 Act and in their reply, they had stated that they had purchased the land from the father namely Rajesh Kumar of respondent No.2, the finding should have been recorded by the Tribunal on the aspect that whether the land in question was transferred to the petitioners or not before holding the transfer in favour of respondent No.2

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by respondent No.1- senior citizen, which transfer was sought to be annulled, was a valid transfer initially itself and in the absence of any such finding given by the Tribunal, the question of facts which are required to be noticed and decided, are missing in the impugned order dated 10.11.2022 (Annexure P-4). As of now, the authorities under 2007 Act are only being directed to decide the issue afresh as to whether, the petitioners who were claiming the ownership, have validly proved the same to the exclusion of respondent No.1- senior citizen purported to have been done by Rajesh Kumar who is the son of respondent No.1- senior citizen and father of respondent No.2.

6. The argument that the petitioners failed to bring on record any sale deed and therefore, the petition should have been dismissed, cannot be entertained as, the same has to be decided on the basis of the material evidence and nothing evident has come on record that the authorities concerned i.e. the Tribunal has allowed the parties to lead evidence in support of their claim as to the ownership of the property before passing the impugned order dated 10.11.2022 (Annexure P-4) and that is why, the case has been remanded back to the authorities concerned to decide afresh in accordance with law keeping in view the facts/pleadings and the evidence of the respective parties qua their respective claim and to decide whether, the petitioners' claim to set aside the transfer in favour of respondent No.2 by respondent No.1-senior citizen under Section 23 of the 2007 Act is valid or not keeping in view the objection of the petitioners that they had already purchased the said land in the year 2009 from the son of respondent No.1 namely Rajesh Kumar and respondent No.1-senior citizen was not the

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owner on the date i.e. in the year 2019 when the land was transferred in favour of respondent No.2.

7. Further, in case there was no issue of respondent No.1-senior citizen with the petitioners and she was only claiming relief against respondent No.2 and the petitioners were stranger to the property in question, whey they were impleaded as respondents while making an application under 2007 Act.

8. In case, the petitioners had any interest in the property, that is why the respondent No.1-senior citizen had impleaded the petitioners in the petition so to bind them. Hence, the petitioners had raised a claim before the authorities concerned qua the ownership of the property in question, which finding has not been recorded by the Tribunal while passing order in favour of respondent No.1-senior citizen. The petitioners' plea before this Court is that respondents No.1 and 2 have filed the petition in collusion with each other which fact is proven that the impugned order has not been challenged by the grandson vide which the transfer of the property by respondent No.1-senior citizen in favour of respondent No.2 has been set aside. Hence, the argument that the petitioners have no locus or they could not have filed the present petition, cannot be accepted.

9. Keeping in view the facts and circumstances mentioned hereinbefore, no ground is made out for any review as no incorrect fact as noticed in the order dated 07.01.2025 has been brought to the notice of this Court and rather, under the garb of review, the respondents are trying to re-argue the case afresh, which is not permissible.



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10. The review application is accordingly dismissed.

February 06, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No