

**CWP-5504-2023****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(290)****CWP-5504-2023****Date of Decision : January 22, 2025****Sher Singh****.. Petitioner****Versus****Additional Deputy Commissioner, Jagraon and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Priyanshu Kamra, Advocate and
Ms. Varinderpal Kaur Sandhu, Advocate, for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Vinay Kumar Berga, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the prayer of the petitioner is that the orders, which have been passed by the Tribunal dated 17.03.2022 (Annexure P-1) as well as the Appellate Authority dated 21.09.2022 (Annexure P-2) under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as '2007 Act') so as to set aside the transfer deed bearing Vasika No.2020-21/22/1/744 dated 23.07.2020, be set aside.

2. Learned counsel for the petitioner submits that after the application was filed by the respondent No.3 Bhupinder Singh under Section 23 of the 2007 Act, a plea was raised that the petitioner, who was working abroad for a period of more than one and half decades, use to send

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money of which transfer receipts are annexed as Annexure P-3 out of which, certain land was purchased by respondent No.3-Bhupinder Singh on his own name as well as in the name of petitioner Sher Singh and the said land, which was in the name of petitioner Sher Singh was transferred in the name of respondent No.3 -Bhupinder Singh so as to get electric connection and ultimately as, the said land was purchased out of the amount remitted by petitioner Sher Singh while working abroad, the land was ultimately transferred in the name of petitioner Sher Singh through transfer deed dated 23.07.2020 (Annexure P4).

3. Learned counsel for the petitioner submits that the said facts as well as the remittance of the amount by petitioner Sher Singh while living abroad has not at all been taken into account and discussed by the Tribunal while passing the impugned order dated 17.03.2022 (Annexure P-1) so as to cancel the transfer deed dated 23.07.2020 and that too without dealing with the assertion that petitioner is the actual owner of the land and not respondent No.3.

4. Learned counsel for the petitioner further submits that even the Appellate Court, has not at all discussed any ground raised qua the order passed by the Tribunal dated 17.03.2022 (Annexure P-1) and the order being totally cryptic and non-speaking, the appeal was rejected hence, both the orders are liable to be set aside.

5. Upon notice of motion, the respondents have appeared and filed the reply wherein, they have stated that once the land was in the name of respondent No.3-Bhupinder Singh, which was transferred in the name of petitioner son Sher Singh, no further requirement existed, so as to re-claim

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the said land keeping in view the Section 23 of the 2007 Act hence, the order passed by the Tribunal dated 17.03.2022 (Annexure P-1) as well as by the Appellate Authority dated 21.09.2022 (Annexure P-2) are perfectly valid and legal and may kindly be upheld.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. As summary proceedings are to be adopted by the Tribunal so as to decide the claim raised under Section 23 of the 2007 Act, the Tribunal is not only to discuss all the pleadings/facts so as to arrive at a conclusion but have to see whether, the provisions/requirements of Section 23 of 2007 Act have been fulfilled or not.

8. In the present case, it was the duty of the Tribunal to record a finding whether, the land in question which was transferred by respondent No.3 Bhupinder Singh in the name of petitioner son Sher Singh was purchased by him from his own funds or the allegations of petitioner son Sher Singh that he had remitted amount while working abroad for a period of more than one decade was the source of purchasing the land in question, which was ultimately given back to petitioner by respondent No.3.

9. Unless and until, the said finding is recorded, the provisions of Section 23 of the 2007 Act are not fulfilled. The Tribunal should have examined the plea of the petitioner Sher Singh that the land in question was purchased out of the amount remitted by him so as to record whether, the land should remain with the petitioner Sher Singh or should be reverted back to respondent No.3-Bhupinder Singh.



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10. Not only this, the Appellate Authority, which has higher responsibility to examine the order keeping in view the grounds raised in the appeal, has to discuss all the grounds raised so as to decide the appeal.

11. In the present case, following is the discussion at the hands of the Appellate Authority:

“Arguments of learned counsel were heard and documents & record brought on the file was inspected. Appeal

of appellant & arguments of counsel of the appellant were inspected intensively. Appeal has been filed by the appellant against the order dated 17.03.2022 of lower court in which application of respondent Bhupinder Singh Under section 23 of Maintenance & Welfare of Parents & Senior Citizens Act, 2007 had been allowed. Both the parties were heard carefully. In Senior Citizen Act, effort has been made for taking care of old persons & for giving opportunity to them for living better life. So, appeal of the appellant is dismissed by upholding the order of lower court. File be consigned to record room after returning the record of lower court”

12. A bare perusal of the above would show that the only reason given is that the 2007 Act mandates taking care of senior citizen so as to give them better living. The said issue was not enough to decide the appeal as the dispute qua the ownership of the property was raised by petitioner Sher Singh, which was being sought back by respondent No.3- Bhupinder Singh and was relevant to decide the plea raised under Section 23 of the 2007 Act.

13. Keeping in view the totality of the circumstances, the orders

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which have been passed by the Tribunal dated 17.03.2022 (Annexure P-1)

as well as by the Appellate Authority dated 21.09.2022 (Annexure P-2) are

set aside. The case is remanded back to the Tribunal for fresh adjudication of the claim on the basis of the evidence to be led by the parties especially qua the ownership of the land in question before deciding the claim of respondent No.3- Bhupinder Singh qua reversion of the land transferred vide transfer deed dated 23.07.2020 to him under Section 23 of the 2007 Act.

14. As the respondent No.3-Bhupinder Singh is a senior citizen and claimed that he has no other property to survive, the Tribunal is directed to decide the issue between the parties within a period of three months from the first appearance of the parties before the Tribunal.

15. The parties are directed to appear before the Tribunal on 06.02.2025.

16. The present writ petition is disposed of in above terms.

January 22, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No