

**CWP-5791-2025****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(102)****CWP-5791-2025****Date of Decision : March 01, 2025****Gurdev Singh and others****.. Petitioners****Versus****State of Punjab and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Mohit Jaggi, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order passed by the Appellate Tribunal envisaged under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred as '2007 Act') dated 19.11.2024 9 (Annexure P-7) by which, the order passed by the Maintenance Tribunal dated 13.02.2020 (Annexure P-2) has been set aside.

2. Learned counsel for the petitioners argues that the senior citizen had raised a claim under 2007 Act for the cancellation of Vasika No.4986 dated 14.11.2017 (Annexure P-1) on the ground that the senior citizen was not being maintained and keeping in view the facts and circumstances, the Tribunal vide it's order dated 13.02.2020 (Annexure P-2) came to the conclusion that as the senior citizen has not been maintained at the hands of the respondent No.4-son and therefore, the Vasika No.4986 dated 14.11.2017 was set aside but in the appeal filed by the son against the said order, the said order was set aside by the Appellate Authority as to restore the property in question to the son, which is arbitrary and illegal.

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3. Learned counsel for the petitioners submits that once a finding has been recorded by the Tribunal vide its order dated 13.02.2020 (Annexure P-2) that the senior citizen was not being maintained, the same could not have been upset by the Appellate Court and that too without giving any valid reason, which has actually been done while passing the impugned order hence, it is the prayer of the petitioner that the impugned order dated 19.01.2024 (Annexure P-7) be set aside so as to revive the order dated 13.03.2020 (Annexure P-2).

4. I have heard learned counsel for the petitioners and have gone through the record with his able assistance.

5. It is worthwhile to notice that the purpose of enacting the 2007 Act was to ensure that the senior citizens are being maintained properly in case they are not capable of maintaining themselves. The children of the senior citizen by way of this act have been casted upon with the duty to maintain the senior citizen. Further, in case the senior citizen has given his/her property to the children with the condition that the children will maintain them and in case, they do not maintain the senior citizen, liberty has been given to the senior citizen to get the said transfer deed to be deemed as a fraud under Section 23 of the 2007 Act.

6. Lately, it has been seen that 2007 Act is being used to settle the property disputes between the family. After the transfer of the land in favour of particular child, the other children of the senior citizen come into picture so as to get the property back on one pretext or the other by using the senior citizen as a means to invoke the jurisdiction under 2007 Act.

Such is the present case. The senior citizen had transferred the property in

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question in favour of all his children including respondent No.4 in the present petition. There was no such condition imposed in the transfer deed (Annexure P-1) that the children will have to maintain the senior citizen. An application was filed by the senior citizen i.e. the petitioner No.1 for setting aside the transfer deed being Vasika No.4986 dated 14.11.2017 (Annexure P-1).

7. The reason given for filing the application so as to claim the property back was that the senior citizen is not being maintained. It may be noticed that the senior citizen had given the property to the other children also but no such claim was raised against them. Once, the claim was not raised against the other children, to whom the property was transferred by the senior citizen, raising the claim only against respondent No.4 shows the intent with which claim was putforth, that it was only with the purpose of getting the land back from respondent No.4 so that the land could to be transferred in favour of other children or their family members.

8. In the present case, after the passing of the order of the Tribunal by which Vasika No.4986 dated 14.11.2017 was set aside, the property which was given to respondent No.4 by petitioner No.1 has been transferred in favour of petitioners No.2 and 3 which clearly show that the intent was only to get back the property from respondent No.4 to be distributed between the other children.

9. Once, the finding has been recorded by the Appellate Tribunal vide it's order dated 19.11.2024 that the present case is not covered under the provisions of 2007 Act but was only relating to the property dispute between the children for which purpose, the senior citizen was being used,

no ground is made out for any interference at the hands of this Court as the

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said finding recorded by the Appellate Court has not been rebutted by the learned counsel for the petitioners in any manner.

10. Even otherwise, the Tribunal while passing the order dated 13.02.2020 (Annexure P-2) did not record a finding as to how the son failed to maintain the senior citizen. No evidence was brought on record by the senior citizen to prove that he was not being maintained by the son. Hence, as per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.174 of 2021 titled as Sudesh Chhikara vs. Ramti Devi and another, decided on 06.12.2022***, unless the non-maintaining of the senior citizen is proved by evidence, no relief can be claimed by the senior citizen. However, the order passed by the Tribunal dated 13.02.2020 (Annexure P-2) has been upheld and the same is set aside the Appellate Authority.

11. No ground is made out for any interference by this Court in the present case.

12. Accordingly, the writ petition is dismissed.

March 01, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No