



**CM-15537-CWP-2024 in/and
CWP-7654-2024 1**

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

(101+223)

**CM-15537-CWP-2024 in/and
CWP-7654-2024
Date of Decision : January 13, 2025**

Bachittar Singh through GPA

.. Petitioner

Versus

Appellate Tribunal and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.D. Gupta, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Mr. S.S. Khaira, Advocate, for respondent No.3.

None for respondent No.4.

HARSIMRAN SINGH SETHI J. (ORAL)

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As prayed for, the application is allowed.

Reply filed on behalf of respondent No.3 is taken on record.

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1. In the present writ petition, the grievance being raised by the petitioner is qua the order dated 21.03.2023 (Annexure P-5) passed by the Tribunal by which, the relinquishment deed of certain portion of land belonging to respondent No.3 was cancelled to the prejudice of the petitioner, which order has been upheld by the Appellate Tribunal vide order dated 12.01.2024 (Annexure P-10).



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2. Learned counsel for the petitioner submits that the petitioner was not served before the order was passed by the Tribunal as the address given in application by respondent No.3 was of the village whereas the petitioner was serving abroad at the relevant time, which fact has gone un rebutted.

3. Learned counsel for the petitioner further submits that without giving due opportunity to the petitioner to defend, the order was passed by the Tribunal merely on the ground that the petitioner did not respond to the claim of the respondents.

4. Learned counsel for the petitioner further submits that the said fact that the petitioner was not served before the passing of the impugned order by the Tribunal, has not been considered by the Appellate Authority while upholding the order though the said ground was raised in the appeal before the Appellate Authority envisaged under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred as '2007 Act').

5. Learned counsel appearing on behalf of respondent No.3 submits that the address of the petitioner which was given in the transfer deed, was mentioned in the application but the petitioner did not appear despite notices were sent to the said valid address.

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

7. Once, the petitioner was not in country and was serving abroad and the address given in the application by respondent No.3 was of India

where the petitioner was not present, it cannot be said that the petitioner was



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served so as to defend the application filed by respondent No.3 under 2007 Act.

8. Further, the said ground has been taken by the petitioner before the Appellate Authority also and a bare perusal of the order passed by the Appellate Authority dated 12.01.2024 (Annexure P-10) would show that the said ground has not been even considered as to how, there was valid service of the petitioner so as to pass an ex part order against him on the application filed by respondent No.3 under 2007 Act. The order passed by the Appellate Authority is totally silent on the said aspect where, the question was to be decided whether, the petitioner was served so as to give him a due opportunity of hearing before an adverse order was passed against him.

9. At this stage, learned counsel for respondent No. 3 submits that the wife of the petitioner was living at the said address.

10. It may be noticed that the grievance was raised against the petitioner and not against the wife hence, the petitioner, who was the owner of the transfer property at the relevant time, should have been served in a manner required.

11. Keeping in view the facts and circumstances of the present case, the petitioner has not been given due opportunity to defend the application and allegations made therein made by respondent No.3. The order passed by the Tribunal dated 21.03.2023 (Annexure P-5) and the order passed by the Appellate Authority dated 12.01.2024 (Annexure P-10) are set aside and the case is remanded back for fresh adjudication by the Tribunal.



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

January 13, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No