



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CWP No. 13087 of 2021 (O&M)

Date of Decision : 18.02.2025

Sukhpal Singh

...Petitioner

Versus

Appellate Tribunal-cum-District Magistrate Sangrur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.K. Singla, Advocate with
Ms. Shikha Singla, Advocate for the petitioner.

Mr. Mohit Kapoor, Senior Deputy Advocate General, Punjab.

Mr. J.S. Bhinder, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 23.03.2021 (Annexure P-5) by which, the Appellate Authority envisaged under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act'), on an appeal preferred by respondent No. 2, has set-aside the transfer deed No. 1461 dated 06.12.2016 so as to revert back the entire property in question in the name of Senior Citizen, Gurdev Singh.

2. Learned counsel for the petitioner submits that senior citizen-respondent No. 3 had transferred the land in favour of his grandson as well as the petitioner vide transfer deed dated 06.12.2016. Learned counsel for the petitioner further submits that on the asking of respondent No. 2,



respondent No. 3-senior citizen filed a petition under Section 23 of 2007 Act for cancellation of the said transfer deed dated 06.12.2016. In the proceedings before the Tribunal, respondent No. 2 gave a statement that he is not ready to maintain the senior citizen and has no objection in case, his share of the land is returned back to the senior citizen. The petitioner took a stand that he is maintaining his father and will continue to maintain and ultimately, the Tribunal vide order dated 17.09.2020 (Annexure P-3) directed that the land transferred in favour of respondent No. 2-Gurjinder Singh will revert back to the senior citizen and with regard to the transfer of land in favour of the petitioner, the same was upheld and only maintenance amount of 5,000/- was awarded in favour of the senior citizen to be paid by the petitioner.

3. Learned counsel further submits that surprisingly, Gurjinder Singh filed an appeal against the said order dated 17.09.2020 even though, he had stated before the Tribunal that he is not ready to maintain the senior citizen and has no objection in case his share is transferred back to senior citizen and in the said appeal, without appreciating the correct facts, the Appellate Authority has set-aside the complete transfer deed dated 06.12.2016 ignoring the fact that the petitioner was maintaining his father at all times to come, which fact had already been accepted by the Tribunal while passing the order dated 17.09.2020.

4. While issuing notice of motion, the impugned order passed by the Appellate Court dated 23.03.2021 (Annexure P-5) was stayed and as of now, the share of land which was given to the petitioner by his father Gurdev



Singh remains with the petitioner keeping in view the interim order dated 19.07.2021.

5. Learned counsel for the petitioner submits that as of now, respondent No. 3-Gurdev Singh has already died and keeping in view the fact that Gurdev Singh never filed appeal against the order of the Tribunal, according to which, only the maintenance of ₹5,000/- was awarded to the senior citizen hence, on the asking of Gurjinder Singh, the transfer deed in favour of the petitioner could not have been set-aside hence, the order dated 23.03.2021 (Annexure P-5) passed by the Appellate Authority may kindly be set-aside.

6. Learned counsel appearing on behalf of respondent No. 2-Gurjinder Singh submits that though, he had filed an appeal but, it was never the intent of Gurjinder Singh for setting-aside the transfer in favour of the petitioner and the order was passed by the Appellate Authority without appreciating the said fact.

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

8. *Prima-facie*, the issue raised under 2007 Act by the senior citizen actually did not concern with the maintenance of the senior citizen rather the intention was to get the land back after cancellation of the transfer deed dated 06.12.2016. After hearing the parties, the Tribunal set-aside the transfer in favour of respondent No. 2 as, respondent No. 2 never contested the claim of the senior citizen. That being the factual position coupled with the fact that senior citizen never challenged the order of the Tribunal dated 17.09.2020 (Annexure P-3) wherein the transfer in favour of the petitioner



was upheld and petitioner was only to pay maintenance, the order passed by the Appellate Authority so as to set-aside the transfer in favour of the petitioner as well is without any application of mind.

9. Once, transfer in favour of the petitioner by senior citizen was upheld by the Tribunal, the same could not have been set-aside on the asking of respondent No. 2, who was also the beneficiary of the same transfer deed. The Appellate Court has not applied its mind while passing the impugned order so as to set-aside the complete transfer deed especially when there was no challenge to the order of the Tribunal by the senior citizen, wherein, senior citizen was held entitled only to maintenance qua the petitioner. The order dated 23.03.2021 (Annexure P-5) is set-aside. The petitioner will remain the owner of his share of land in pursuance to the transfer deed dated 06.12.2016 for all intents and purposes and the order passed by the Appellate Court dated 23.03.2021 (Annexure P-5) is set-aside qua the petitioner and the order of the Tribunal dated 17.09.2020 (Annexure P-3) stands restored for all intents and purposes.

10. Present petition is allowed in above terms.

11. Pending miscellaneous application, if any, also stands disposed of.

February 18, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No