



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

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CWP-18077-2024

Date of Decision:- 14.01.2025

**Balveer Singh and another****...Petitioners**

**Versus**

**State of Punjab and others****....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. G.S. Sandhu, Advocate for the petitioners.

Mr. Naveen Singh Parmar, DAG, Punjab.

Mr. Ranjit Saini, Advocate for respondent No.3.

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**Harsimran Singh Sethi, J. (Oral)**

1. In the present petition, challenge is to the order dated 27.06.2024 (Annexure P/5) passed by the Appellate Authority under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short '2007 Act') by which, the order passed by the Tribunal dated 16.11.2022 (Annexure P/3) has been set aside and further direction has been given that the transfer deed No.567 dated 26.07.2021 (Annexure P/1) in favour of the petitioners executed by respondent No.3-father shall also be stand cancelled.

2. Learned counsel for the petitioner argues that the petitioners have only got approximately two acres of land and they have never refused to take care of respondent No.3-father.

3. Learned counsel for the petitioners further submits that the other siblings of the petitioners as the respondent No.3-father has six sons, are

instigating the father now to reconsider his decision to transfer the land in favour of the petitioners so that they can avail the benefit of transfer of the said land in their favour. Learned counsel for the petitioners further submits that once keeping in view the facts and circumstances of the present case, the Tribunal while exercising the jurisdiction under the 2007 Act has already decided that both the petitioners along with respondent No.4 will pay a sum of Rs.50,000/ per annum to father-respondent No.3, the said finding could not have been overturned by using the discretion especially, when there was no perversity in the said order.

4. Learned counsel for father-respondent No.3 submits that the sons were bound to take care of their father-respondent No.3 and they failed to discharge the said duty, the land transferred in favour of the petitioners as well as respondent No.4 has rightly been cancelled.

5. Learned counsel for respondent No.3 has not been able to deny that petitioners as well as respondent No.4 were complying with the direction given by the Tribunal to pay a sum of Rs.50,000/-, but same is not being accepted by father-respondent No.3.

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

7. The prime contention of respondent No.3 is that he is not being taken care of and the Tribunal keeping in view the facts and circumstances came to the conclusion that interest of respondent No.3 will be best served by giving him a sum of Rs.50,000/- per annum by petitioners as well as respondent No.4

8. The findings which have been recorded by the Tribunal can only be set aside in case, the same are perverse to any evidence. Merely that respondent No.3 subsequently refused to accept the maintenance money, cannot be a ground to set aside the order passed by the Tribunal. The Tribunal passed the order keeping in view the facts and circumstances presented before the Tribunal.

Even otherwise, from the facts, it transpires that subsequent to the

transfer of land in favour of petitioners as well as respondent No.4, the other sons of the respondent No.3. raised a claim qua the said land hence the filing of application under Section 23 of the 2007 Act is only to reconsider the transfer by taking shelter behind the plea that respondent No.3 is not being taken care of. Once, the Tribunal ensured that the petitioners will take care of respondent No.3 by paying yearly financial assistance, the Appellate Court has wrongly set aside the order passed by the Tribunal.

10. Further, the requirement of Section 23 of the 2007 Act is required to be proved in case of non-extending of basic amenities and physical needs as being sought by the senior citizen so as to claim the cancellation of the transfer deed. In the present case, no such description of the basic amenities or physical needs of the senior citizen have been described which were not made available. The Appellate Court without even considering the said fact has passed the order exercising jurisdiction under Section 23 of the 2007 Act so as to cancel the transfer deed qua the property in question. The order passed by the Appellate Authority is contrary to the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.174-2021, titled as, Sudesh Chhikara vs. Ramti Devi and another, decided on 06.12.2022.** Relevant paragraphs of the judgment are as under:-

13. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of [Section 23](#) are attached to a transfer, existence of such conditions must be established before the Tribunal.

14. Careful perusal of the petition under [Section 23](#) filed by respondent no.1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of respondent no.1) would provide



the basic amenities and basic physical needs to respondent no.1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the impugned judgment of the Tribunal, immediately after a reply was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor – senior citizen is sine qua non for applicability of sub-section (1) of [Section 23](#). In the present case, as stated earlier, it is not even pleaded by respondent no.1 that the release deed was executed subject to such a condition.”

11. Hence, it was incumbent upon the senior citizen to plead and prove non-furnishing of basic amenities and physical needs at the hand of transferer, which is missing in the present case and by a cryptic order, an order passed by the Tribunal has been set aside by the Appellate Court which cannot be sustained in the eyes of law.

12. Further, the land transferred in favour of the petitioners is approximately two acres and yearly revenue generated from the said land is around Rs.1 lac. Learned counsel for the petitioners submits that though along with respondent No.4 they were directed to pay a sum of Rs.50,000/- yearly but now as respondent No.4 is siding with the respondent No.3, they agree to pay a sum of Rs.50,000/- jointly i.e. both the petitioners starting from year 2025.

13. Learned counsel for the petitioners has also undertaken that the earlier dues of the petitioners out of the Rs.50,000/- awarded in favour of respondent No.3 to be paid by petitioners 1, 2 and respondent No.4, their share will also be cleared by 15.02.2025.

14. Keeping in view the said averments, the interest of the father-respondent No.3 can be well taken care of qua his daily needs. The order passed by the Appellate Authority dated 27.06.2024 (Annexure P/5) is set aside and the order



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passed by the Tribunal dated 16.11.2022 (Annexure P/3) is modified keeping in view the terms and conditions mentioned hereinbefore.

15. Present petition is disposed of in above terms.

January 14, 2025  
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(HARSIMRAN SINGH SETHI)  
JUDGE

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