

**CWP-8781-2016****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****206****CWP-8781-2016****Date of Decision :07.04.2025****Ranjit Singh****...Petitioner****Versus****Deputy Commissioner, Mansa & others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Preetwinder Singh Dhaliwal, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Respondent No.3 already proceeded ex-parte
(vide order dated 11.12.2018 of the Coordinate Bench of this
Court).

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to the order dated 27.04.2015 (Annexure P/3) passed by the authority envisaged under the Maintenance and Welfare of Parents and Senior Citizen, Act, 2007 (hereinafter referred as '2007 Act') as well as order dated 09.10.2015 (Annexure P/9) passed by the Appellate Authority i.e. respondent No.1 granting relief in favour of respondent No.3-senior citizen-Chhota Singh.

2. Learned counsel for the petitioner submits that without appreciating the provisions of 2007 Act the benefit has been given in favour of respondent No.3-senior citizen-Chhota Singh, who is the father of the petitioner so as to cancel the transfer deed dated 01.02.2007. Learned counsel for the petitioner further submits that though, 2007 Act was only

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enacted in December 2007 and according to the said Act, any land in question, which is being made the subject matter of 2007 Act should have been transferred after the promulgation of the said Act in order to get the benefit under 2007 Act, which crucial aspect has been ignored by the authorities concerned under 2007 Act while passing the impugned order.

3. Learned counsel for the respondent-State has not been able to dispute that only the transfer of the property which has been transferred after the promulgation of 2007 Act, which was done in December 2007, the said property can then only be made subject matter of the claim raised under the said Act.

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

5. A bare perusal of the 2007 Act would show that the same received the assent of the President of India on 29.12.2007 and was published in Gazette on 31.12.2007 and the same only has a prospective effect.

6. Section 23 of the 2007 Act stipulates the circumstances under which the transfer of property by a senior citizen in favour of another can be treated as void. As per Section 23(1) of the 2007 Act, where a senior citizen after the commencement of 2007 Act has transferred the property by way of gift deed or otherwise, subject to the conditions that the transferee shall provide basic amenities and basic physical needs to the transferor-senior citizen and upon refusal of the transferee to provide the same, the transfer of the property has to be treated having been done by way of fraud or coercion.

The relevant Section 23(1) of the 2007 Act is as under:-



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23. Transfer of property to be void in certain circumstances.

(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

7. In the present case, it is a conceded position that the transfer of property was done in January 2007 i.e. much prior to the promulgation of 2007 Act. That being so, the said transfer of land in present case cannot be made subject matter of the litigation under 2007 Act.

8. Keeping in view the totality of the facts and circumstances of the present case, impugned orders dated 27.04.2015 (Annexure P/3) as well as dated 09.10.2015 (Annexure P/9) are set aside.

9. Present petition is allowed.

10. Civil miscellaneous application pending, if any, is also disposed of.

April 07, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No