



CWP-23518-2024 (O&M)

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

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CWP-23518-2024 (O&M)

Date of Decision :08.07.2025

Harbakshish Singh**...Petitioner****Versus****Additional District Magistrate, Barnala-cum-Appellate Tribunal
& others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Vivek Singla, Advocate for the petitioner.

None for respondent No.3.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to order dated 23.07.2024 (Annexure P/5) passed by the Appellate authority as well as order dated 31.08.2022 (Annexure P/3) passed by the Tribunal exercising jurisdiction under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as '2007 Act'), by which, the claim of the petitioner-senior citizen for cancellation of the transfer deed No.1332 dated 10.07.2017 in favour of respondent No.3 has been declined.

2. Learned counsel for the petitioner argues that despite the fact that there was a specific condition stipulated in the transfer deed No. 1332 dated 10.07.2017 that respondent No.3, who is a grandson of the petitioner-senior citizen, will take care of the petitioner-senior citizen; respondent



No.3 failed to do so and the authorities exercising the jurisdiction under the 2007 Act have failed to appreciate the same and hence, the impugned order dated 31.08.2022 (Annexure P/3) passed by the Tribunal as well as order dated 23.07.2024 (Annexure P/5) passed by Appellate authority are liable to be set aside and transfer deed No.1332 dated 10.07.2017 may kindly be cancelled.

3. Respondent No.3, who is a contesting respondent has not been served.

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

5. Certain facts are clear that total land which was owned by the petitioner-senior citizen was more than 106 kanals, out of which, only 42 kanals of land was transferred in favour of respondent No.3, who is grandson of the petitioner. Once, the petitioner himself has enough property to maintain himself and is taking care of himself through the earnings from the said property, nothing has come on record to show that what else was respondent No.3 required to do for maintaining the petitioner-senior citizen .

6. Today during the course of arguments, learned counsel for the petitioner-senior citizen submits that the respondent No.3 has shifted to New Zealand and is residing there hence, he is not taking care of the petitioner-senior citizen , who is his grandfather.

7. Merely that after the transfer of the property in question in order to succeed in life certain actions have been taken by respondent No.3 and he has shifted to New Zealand does not mean that it will amount to not taking care of the petitioner-senior citizen/grandfather. Nothing has come on record



to show that any financial difficulty is being faced by the petitioner-senior citizen to maintain himself out of the land which is already with him. In the absence of any such fact brought on record, it cannot be said that the petitioner-senior citizen needs to be maintained at the hands of the respondent No.3 after the transfer of property in question in favour of respondent No.3.

8. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in the case of *Sudesh Chhikara vs. Ramti Devi and another 2023 (1) RCR (Civil) 226*, proving of non-maintenance by the senior citizen is essential in order to get relief under Section 23 of the 2007 Act. Relevant paragraphs No.13 & 14 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



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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.”

9. In the present case, nothing has been brought on record to show that petitioner-senior citizen does not have sufficient means to maintain himself. Rather the petitioner-senior citizen has failed to prove that he needs to be maintained and that he is not being maintained by the transferee-respondent No.3. The ingredients of Section 23 of the 2007 Act have not been fulfilled by the petitioner-senior citizen.

10. Keeping in view the totality of the facts and circumstances of the present case, no ground for interference by this Court in the impugned orders passed by the authorities exercising the power under the 2007 act is made out and the writ petition is accordingly dismissed.

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

July 08, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No