



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101+212

CM-920-CWP-2025 in/&
CWP-22145-2023
Date of Decision :22.01.2025

Anguri Devi

...Petitioner

Versus

District Magistrate-cum-Appellate Tribunal,
Panipat and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Ghangas, Advocate with Mr. Shivdeep, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Rajesh Bansal, Advocate for respondent No.3.

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Harsimran Singh Sethi, J. (Oral)

CM-920-CWP-2025

1. As prayed for, application is allowed.
2. Written statement filed on behalf of respondent No.3 along
with annexures is taken on record.

CWP-22145-2023

3. In the present petition, challenge is to the order passed by the
Appellate Authority dated 06.07.2023 (Annexure P/6) by which, the order
passed by the Tribunal dated 20.07.2022 (Annexure P/4) on an application
filed by the petitioner under Section 23 of The Maintenance and Welfare of
Parents and Senior Citizens Act, 2007 (in short, '2007 Act'), which was



allowed by the Tribunal, has been set aside by the Appellate Authority.

4. Learned counsel for the petitioner argues that the order passed by the Appellate Court dated 06.07.2023 (Annexure P/6) setting aside the order passed by the Tribunal dated 20.07.2022 (Annexure P/4) is incorrect as the said order is contrary to the Section 23 of the 2007 Act and hence, the said order is liable to be set aside.

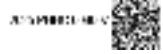
5. Learned counsel for the respondents submits that the Tribunal without appreciating the provisions of Section 23 of the 2007 Act has passed an order without even stating as to how, the requirements of Section 23 of the 2007 Act have been satisfied and on an appeal preferred by the respondent No.3, the Appellate authority has considered the provisions of the 2007 Act in a manner required, keeping in view the settled principle of law and has rightly set aside the order passed by the Tribunal dated 20.07.2022 (Annexure P/4) hence, the present petition may kindly be dismissed.

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

7. The Section 23 of the 2007 Act is as under:-

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.(2)Where any senior citizen has a right



to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.(3)If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organization referred to in Explanation to sub-section (1) of section 5.

8. The aforementioned Section 23 of the 2007 Act has been interpreted by the Hon'ble Supreme Court of India in case of **Sudesh Chhikara vs. Ramti Devi and another 2023 (1) RCR (Civil) 226.** 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 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. The finding which has been recorded by the Appellate Court



that the conditions envisaged under Section 23 of the 2007 Act have not been fulfilled as there was no condition in the transfer deed No.2126 dated 30/31.10.2007 that the transferee i.e. the respondents No.3 & 4 of the property is required to maintain the transferer i.e. the petitioner-mother in any manner and further that nothing has come on record that transferer has pleaded or proved non-maintenance at the hands of transferee.

10. Learned counsel for the petitioner has not been able to rebut the finding of the Appellate Authority keeping in view the terms and conditions of the transfer deed dated 30/31.10.2007 and the settled principle of law settled in **Sudesh Chhikara (supra)**. Once, a finding recorded by the appellate Court has not been rebutted in any manner so as to treat the same as perverse, either to the material evidence on record or to the provisions of 2007 Act or to the settled principle of law settled by the Hon'ble Supreme Court of India in **Sudesh Chhikara (supra)**, no ground for interference is made out by this Court and the writ petition is accordingly dismissed.

January 22, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No