



CWP-21773-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21773-2023 (O&M)
Date of Decision :19.02.2025

Sansar Singh

...Petitioner

Versus

Appellate Tribunal-cum-District Magistrate, Sangrur
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mohd. Jameel, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Ms. Shifa Arora, Advocate for respondent No.3

Mr. Navneet, Advocate for
Mr. Munish Raj Chaudhary, Advocate for
respondents No.4(i) (ii) & (iii).

* * *

Harsimran Singh Sethi, J. (Oral)

CM-10922-CWP-2024

1. Present application has been filed for bringing on record the legal representatives of respondent No.4-Amandeep Singh, who unfortunately died during the pendency of the present petition.

2. Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Legal representatives of respondent No.4-Amandeep Singh, details of whom have been given in para-2 of the application are ordered to be brought on record subject to all just exceptions.



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3. Amended memo of parties is also taken on record.

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4. In the present petition, challenge is to the impugned order dated 22.08.2023 (Annexure P/3) passed by the Appellate Authority by which, the order passed by the Tribunal dated 08.05.2023 (Annexure P/2) has been set aside.

5. Learned counsel for the petitioner-senior citizen argues that the petitioner-senior citizen had transferred his land measuring 11 bighas in favour of respondent No.3 i.e. daughter of petitioner-senior citizen vide transfer deed dated 02.04.2019 (Annexure P/4) with a clear condition stipulated therein that respondent No.3-daughter will maintain her father-petitioner-senior citizen whereas, the respondent No.3-daughter has failed to maintain her father. Learned counsel for the petitioner-senior citizen submits that the petitioner-senior citizen on being aggrieved by non-maintenance by his daughter filed an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (In short, '2007 Act') for cancellation of the said transfer deed dated 02.04.2019 (Annexure P/4), which application was later on withdrawn on 30.07.2019 keeping in view the compromise effected between the parties according to which, the respondent No.3-daughter was supposed to keep on paying a sum of Rs.5000/- per month to the petitioner-senior citizen. Learned counsel for the petitioner-senior citizen further submits that as the said maintenance money which was promised again after effecting the compromise was not paid by the respondent No.3-daughter, another fresh application was filed by the petitioner-senior citizen under the 2007 Act for setting aside the

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transfer deed dated 02.04.2019 (Annexure P/4) as well as the further transfer of the land in favour of respondent No.4-Amandeep Singh vide sale deed dated 07.07.2022. The said application was accepted by the Tribunal vide order dated 08.05.2023 (Annexure P/2) and the transfer deed dated 02.04.2019 (Annexure P/4) as well as subsequent sale deed dated 07.07.2022 were set aside.

6. Against the said order, an appeal was preferred by the respondent No.3-daughter, which appeal was accepted by the Appellate Authority vide order dated 22.08.2023 (Annexure P/3) and the order passed by the Tribunal dated 08.05.2023 (Annexure P/2) was set aside. The said order dated 22.08.2023 (Annexure P/3) is under challenge in the present petition.

7. Learned counsel for the petitioner-senior citizen argues that once, the transfer in favour of respondent No.3-daughter was conditional and subject to the maintenance of transferor-petitioner senior Citizen and the said transferor was not being maintained by the transferee, the order passed by the Tribunal dated 08.05.2023 (Annexure P/2) cancelling the transfer deed as well as subsequent sale by the respondent No.3-daughter in favour of respondent No.4 was rightly set aside by the Tribunal, which fact has not been appreciated by the Appellate Authority in a correct perspective and hence, the order passed by the Appellate Authority dated 22.08.2023 (Annexure P/3) liable to be set aside.

8. Upon notice of motion, the respondents have appeared and submitted that once, a compromise was effected between the parties and the amount as per said compromise was being paid to the petitioner-senior

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citizen, fresh application on the same cause of action was not maintainable and hence, the order passed by the Tribunal dated 08.05.2023 (Annexure P/2) has been rightly set aside by the Appellate Authority vide order dated 22.08.2023 (Annexure P/3).

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

10. Concededly, the petitioner-senior citizen filed an application under Section 23 of the 2007 Act, which application was withdrawn on the basis of the compromise reached between the parties. As per the said compromise, the petitioner-senior citizen was to get maintenance of Rs.5000/- per month from respondent No.3-daughter, which according to the petitioner-senior citizen she failed to pay. Thereafter, the petitioner-senior citizen again filed an application for cancellation of the transfer deed as well as subsequent transfer of land in favour of respondent No.4 by the respondent No.3-daughter, which petition was allowed on the ground that petitioner-senior citizen is not being maintained by the respondent No.3-daughter.

11. Once, the parties had reached upon a compromise on the issue persisting between them and the respondent No.3-daughter as according to the compromise was paying a sum of Rs 5,000/- per month to the petitioner-senior citizen, the petition filed by the petitioner-senior citizen was not maintainable merely because of the fact that respondent No.3-daughter has further sold the said property to respondent No.4.

12. Further, nothing has come on record to show that respondent No.3-daughter had stopped paying a sum of Rs.5000/- per month to the



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petitioner-senior citizen and no such finding has been recorded even by the Tribunal before setting aside the transfer deed dated 02.04.2019 as well as subsequent sale deed dated 07.07.2022 by the daughter-in-law to respondent No.4. In the absence of any such finding, order passed by the Tribunal dated 08.05.2023 (Annexure P/2) has been rightly set aside by the Appellate Authority vide order dated 22.08.2023 (Annexure P/3).

13. Though, the order passed by the Tribunal has been set aside by the Appellate Authority but the Appellate Authority should have bounded the respondent No.3-daughter to continue to pay a sum of Rs.5,000/- per month to the petitioner-senior citizen as maintenance amount.

14. Keeping in view the totality of the facts and circumstances noticed hereinbefore, though, the present petition is dismissed but respondent No.3-daughter is directed to maintain her father-petitioner/senior citizen in accordance with the compromise by paying him a sum of Rs.5000/- per month. Apart from that arrears for which the petitioner-senior citizen is entitled, also be released to him within a period 08 weeks of the receipt of copy of this order failing which, the petitioner-senior citizen will have the right to file appropriate application before this Court so as to reconsider the order passed today.

15. Present petition is dismissed in above terms.

February 19, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No