



CWP-33432-2024 :1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CWP-33432-2024 (O&M)
Date of decision : 20.01.2025

NACHHATTAR KAUR

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. H. P. S. Ghuman, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Saurabh Kaushik, Advocate
for respondent No.4.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is qua the order passed by respondent No.2 i.e. the Appellate Authority dated 30.07.2024 (Annexure P-7) by which, the order dated 18.04.2024 (Annexure P-6) passed by the Tribunal on a petition filed by the petitioner under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as '2007 Act'), has been set aside.

2. Learned counsel for the petitioner argues that without there being any valid ground, the well reasoned order dated 18.04.2024 (Annexure P-6) passed by respondent No.3-Tribunal, has been set aside by which, the transfer of the property of the petitioner which is about 30 kanal, 19 marla

and 6 sersai in favour of the respondents-grandson vide transfer deed dated

CWP-33432-2024 :2:

07.06.2021 (Annexure P-1), was *set aside*. Learned counsel submits that there exists no valid ground with the Appellate Authority to set aside the said order of the Tribunal and therefore, the order passed by the Appellate Authority dated 30.07.2024 having endorsement dated 23.08.2024 may kindly be set aside.

3. Learned counsel appearing on behalf of respondent No.4-grand son submits that the land by the petitioner was transferred by the petitioner in the name of the grand-son, is a student. Learned counsel further submits that the petitioner has two grand-sons and the property owned by the petitioner was transferred in the name of two grand-sons namely Ramandeep Singh and Ranbir Singh and for the said transfer, a sum of Rs.5 lakhs was given to the petitioner for her maintenance by the father of respondent No.4 as, the petitioner was living with her other son Gurjiwan Singh as well as grandson. Learned counsel for the respondent further submits that nothing has come on record as to how, the petitioner was liable to be maintained and which undertaking if any act has not been performed by the respondent No.4 grand-son, which fact was not at all dealt with by the Tribunal hence, the order passed by the Appellate Authority is perfectly valid and legal.

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

5. Certain facts are not in dispute. It is a conceded fact the petitioner had transferred her land in the favour of the two grand-sons. No such application under Section 23 has been filed by the petitioner qua the other grand-son to whom the property was also transferred so as to claim the resumption of the same in favour of the petitioner.

6. The argument which has been raised on behalf of petitioner is that once, the property was transferred keeping in view the provision of Section 23 of 2007 Act, and it was the liability of the two grandsons to maintain the petitioner, as the petitioner was not being maintained, the Tribunal has rightly set aside the said transfer deed dated 07.06.2021 (Annexure P-1). It may be noticed that for the said transfer, a sum of Rs.5 lakhs was given to the petitioner by the father of respondent No.4 namely Gurpreet Singh which amounts to either the amount of the property or, the advance maintenance in favour of the petitioner. Once, the petitioner had already received a sum of Rs.5 lakhs from the respondent No.4-grand-son, the petitioner liable to get herself maintained out of the said amount.

7. Further, no such amount of Rs.5 lakhs was given by the other grand-son namely, Ranbir Singh as, the petitioner is living with her son namely, Gurjiwan Singh as well as grand-son.

8. Further, the Tribunal has failed to appreciate that nothing evident has come on record to show to how, the respondent No.4 grand-son who is a student was to maintain the petitioner especially when she was not living with him. In the absence of any such finding, the order passed by the Tribunal has rightly been set aside by the Appellate Tribunal.

9. Further, both the sons of the petitioners are alive and rather than seeking maintenance from her sons, the present petition was filed for the cancellation of transfer deed (Annexure P-1) which clearly shows that the only intention of the petitioner is to get the transfer deed cancelled which is in the favour of the grand son-respondent No.4 who is a student so that, she can transfer the said land to any other person.

10. Further, the intention behind 2007 Act is to see that in case where the senior citizen does not have any means to maintain themselves and had already transferred his/her property in favour of any other person, and is now in despair to live a dignified life, the right was given for the restoration of the property in question so that, she/he i.e. the senior citizen can maintain themselves.

11. In the present case, nothing has come on record as to how with a sum of Rs.5 lakhs, the petitioner cannot maintain herself especially when she was living with other son as well as grand-son in whose favour she had transferred the property. In the facts and circumstances of the present case, the petitioner has not been able to prove the fact that she not was being maintained properly which is one of the requirements as per the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.174 of 2021, decided on 06.12.2022 titled Sudesh Chhikara Vs. Ramti Devi and another**. The relevant paragraph 14 of the judgment is as under:-

“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.”

CWP-33432-2024 :5:

12. Keeping in view the above, no ground is made out for any interference especially when, even the grand-son has now been made to pay the maintenance, with which maintenance, the petitioner can live a dignified life keeping in view her other source of livelihood.

13. Present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

20.01.2025
Rimpal

Whether speaking/reasoned	Yes
Whether Reportable :	No