



CWP-6588-2017 (O&M)

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

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CWP-6588-2017 (O&M)
Date of Decision :02.04.2025

Sumitra Devi

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Kanwar Abhay Singh, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 13.07.2016 (Annexure P/2) passed by the Appellate Tribunal, Rohtak exercising the jurisdiction under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as '2007 Act'), by which the order dated 25.02.2014 was set aside and the sale deed No.286 dated 14.05.2013 was declared null and void, which is causing prejudice to the petitioner.

2. As per the facts mentioned in the present petition, the senior citizen (deceased) namely, Phoolpati, widow of Tare had transferred 422 Marla land in favour of the petitioner-Sumitra Devi vide sale deed No.286 dated 14.05.2013. After the transfer of the said land, the senior citizen



Phoolpati (now deceased) filed a petition under Section 23 of the 2007 Act to declare the aforementioned transfer as bad. Before the said application could be entertained, unfortunately Phoolpati died on 11.10.2013.

3. After the death of Phoolpati, the application filed by Phoolpati was dismissed having been rendered infructuous by the Tribunal envisaged under the 2007 Act vide order dated 25.02.2014 (Annexure P/1).

4. Thereafter, one of the nephew of the Phoolpati, namely, Sukhveer Singh Rathee filed an appeal against the said order dated 25.02.2014 (Annexure P/1) claiming that through a general power of attorney he was appointed as legal heir of phoolpati and hence, the application filed by Phoolpati under 2007 Act could not have been dismissed on her death as, the property in question given by senior citizen Phoolpati (now deceased) to the petitioner herein should be reverted back to Phoolpati to be owned by respondent No.4-Sukhveer Singh Rathee being the legal heir of Phoolpati.

5. The District Collector, Rohtak vide order dated 13.07.2016 (Annexure P/2) accepted the said contention of the respondent No.4 Sukhveer Singh Rathee to grant the relief that the land measuring 422 Marla which was transferred by senior citizen Phoolpati to petitioner-Sumitra Devi should revert back to respondent No.4-Sukhveer Singh Rathee after the death of Phoolpati. The said order is under challenge in the present petition.

6. Learned counsel for the petitioner argues that once, the senior citizen died even before adjudication of her claim under 2007 Act for reverting back the property in question and the said application was dismissed, the legal heir could not have filed an appeal as the same is not



envisaged under the 2007 Act. Learned counsel for the petitioner submits that it is only in case, the property in question would have reverted back to senior citizen Phoolpati, the legal heir could have raised any claim so as to setting aside of sale deed, but in the present case, on the date when the senior citizen Phoolpati died, the property in question belonged to the petitioner herein and hence, even according to the Will of Phoolpati, the nephew Sukhveer Singh Rathee could not have claimed the said property, which was not the ownership of Phoolpati on the date of her death, which benefit has wrongly been granted in his favour by the Appellate Authority vide order dated 13.07.2016 (Annexure P/2).

7. Learned counsel for the petitioner further submits that respondent No.4-Sukhveer Singh Rathee in his own right also filed civil suit claiming property in question back from the petitioner, which civil suit was dismissed and even the appeal filed by him has also been rejected. Learned counsel for the petitioner submits that the property which the respondent No.4-Sukhveer Singh Rathee could not get by claiming the transfer of the said property by Phoolpati in favour of the petitioner herein as bad, the same has been granted by the authority exercising jurisdiction under 2007 Act, which is arbitrary and illegal.

8. Upon notice of motion, the respondents have appeared and concedes the facts which have been mentioned hereinbefore but submits that as respondent No.4-Sukhveer Singh Rathee was the legal heir of the Phoolpati according to her Will, he was very much entitled to step into the shoes of Phoolpati to continue the proceedings under 2007 Act, which has rightly been appreciated by the District Collector while passing the



impugned order dated 13.07.2016 (Annexure P/2) and hence, the present writ petition is liable to be dismissed.

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

10. The process envisaged under 2007 Act is to adopt a summary proceedings to grant relief to the senior citizen in respect of the property which the senior citizen owned and had transferred and wants to take back the said property by proving the ingredients of Section 23 of the 2007 Act. In the present case, the senior citizen Phoolpati died immediately after filing the application under Section 23 of the 2007 Act and no finding was recorded by the Tribunal that the transfer of the property in favour of the petitioner herein was bad in any manner keeping in view the ingredient of Section 23 of the 2007 Act. That being so, respondent No.4-Sukhveer Singh Rathee could not have filed an appeal when the application was dismissed by the Tribunal after the death of the senior citizen-Phoolpati. Respondent No.4-Sukhveer Singh Rathee is claiming property only on the basis of the Will and by the Will only that property can be transferred, which was the ownership of the senior citizen on the date of the death of the senior citizen. In the present case, it is conceded position that on the date of death death i.e. on 11.10.2013 of the senior citizen-Phoolpati, the property in question belonged to the petitioner herein and not the senior citizen Phoolpati hence, respondent No.4-Sukhveer Singh Rathee did not had jurisdiction to file appeal by assuming that he has stepped into the shoes of senior citizen Phoolpati so as to claim relief under 2007 Act.

11. Keeping in view the totality of the circumstances coupled with



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the fact that the civil suit filed by the respondent No.4-Sukhveer Singh Rathee in his own right to claim the said property back has also been declined, the order dated 13.07.2016 (Annexure P/2) passed by the District Collector was beyond his jurisdiction and without appreciating the provisions of 2007 Act and cannot be sustained in the eyes of law and the same is accordingly set aside.

12. Present petition is allowed.

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

April 02, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No