

**CWP-8967-2023****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(290)****CWP-8967-2023****Date of Decision : January 08, 2025****Gagandeep Singh****.. Petitioner****Versus****SDM-cum- Maintenance Tribunal Dhuri and others .. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Saurabh Bajaj, Advocate, for the petitioner.

Ms. Shruti, Assistant Advocate General, Punjab.

Mr. Abhishek Sharma, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 26.10.2022 (Annexure P-3) passed by respondent No.1 on an application filed by respondent No.2 under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred as "2007 Act") by which, a direction has been issued that the transfer of plot belonging to respondent No.2, in favour of the petitioner, has been cancelled. The said order has already been upheld by the Appellate Authority vide order dated 07.02.2023 (Annexure P-5).

2. Learned counsel for the petitioner submits that the order which has been passed by the respondents is arbitrary as the allegation by respondent No.2 qua fraud played has not been proved.

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



4. It has been conceded by the learned counsel for the petitioner that respondent No.2 was the owner of a plot measuring 250 square yards and the same was transferred by respondent No.2 on 16.03.2022 in his favour. The statement which has been given by respondent No.2 is clear that the said transfer of the property was not transparent and she was kept in dark with regard to the transfer of the said house in favour of the petitioner. Further, she has also stated that even after the transfer of the said property, respondent No.2 i.e. mother is not being maintained by the petitioner i.e. the son. The Court after going through the said evidence, which has gone un-rebutted, has passed an order that the transfer of the house in favour of the petitioner was not valid and the petitioner is not maintaining his mother keeping in view the conditions which have been made part of the transfer as well.

5. On being asked to point out the perversity in the orders, which have been impugned (Annexure P-3) in the present writ petition, learned counsel for the petitioner has not been able to point out any factual discrepancy or perversity in the orders which have been impugned (Annexure P-3) keeping in view the provisions of 2007 Act.

6. Further as per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No. 10927 of 2024 titled as Urmila Dixit vs. Sunil Sharan Dixit and others, decided on 02.01.2025***, the Tribunal has inherent power of evicting the unauthorized occupant on the asking of the senior citizen under Section 23 of the 2007 Act. The relevant paragraphs of the said judgment are as under:

“24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the



competency of the Tribunal to hand over possession of the property. In S. Vanitha (supra), this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.

25. Another observation of the High Court that must be clarified, is Section 23 being a standalone provision of the Act. In our considered view, the relief available to senior citizens under Section 23 is intrinsically linked with the statement of objects and reasons of the Act, that elderly citizens of our country, in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee.”

7. Keeping in view the facts of the present case, coupled with the settled principle of law especially when no perversity in the orders impugned has been brought to the notice of this Court, no ground is made out for any interference by this Court in the present case.

8. Accordingly, the writ petition is dismissed.

January 08, 2025

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No