

favour of her son namely Neeraj Garg as well as his grandson namely Sparsh Garg who is respondent No.3 equivalently.

3. Learned counsel for the petitioner-Senior Citizen submits that the son namely Neeraj Garg as well as her grandson i.e. respondent No.3 namely Sparsh Garg though agreed to take care of the petitioner-Senior Citizen but stopped maintaining senior citizen which led to the filing of an application under Section 23 of the Maintenance and Welfare of Senior Citizens Act, 2007 (hereinafter referred to as “2007 Act”) for the cancellation of the transfer deed bearing Vasika under 10569 dated 26.09.2019 (Annexure P-1).

4. Learned counsel for the petitioner submits that the son namely Neeraj Garg has transferred back the 50% share vide Vasika No.7775 dated 01.02.2021 in favour the petitioner-Senior Citizen and thereafter the proceedings under the 2007 Act were initiated against the grandson who is respondent No.3 for the cancellation of the transfer deed dated 26.09.2019 (Annexure P-1).

5. The Tribunal after considering all the facts of the present case came to the conclusion that the requisites of Section 23 of the Senior Citizens Act are not fulfilled by the petitioner-Senior Citizen and rejected the application, vide order dated 25.08.2021 (Annexure P-2) after which, an appeal was preferred by Senior Citizen before the Appellate Authority, which also came to be dismissed on 05.09.2022 (Annexure P-4) and both the said orders are being challenged before this Court.

6. Learned counsel for the petitioner argues that without appreciating the actual facts, the claim of the senior citizen for setting aside

the transfer deed dated 26.09.2019 (Annexure P-1) has been rejected by the Tribunal, even though, senior citizen is not being maintained.

7. Learned counsel appearing on behalf of the respondents submits that it is a case of property dispute and not the maintenance of the senior citizen.

8. Learned counsel appearing on behalf of the respondents further submits that there is a matrimonial dispute between the son of the senior citizen i.e. the father of the respondent No.3 and his mother and the action to take back the property is only to oust the mother of the respondent No.3 and respondent No.3 from the property in question so that the same can be enjoyed by the petitioner-Senior Citizen and her son i.e. father of respondent No.3.

9. Learned counsel for the respondent No.3 submits that the transfer of the property in question back to the senior citizen by the father of the respondent No.3 shows that this was a collusive action being taken actually by the father of the respondent No.3 under the garb of the petitioner-Senior Citizen hence, the orders dated 25.08.2021 (Annexure P-2) and 05.09.2022 (Annexure P-4) passed by the authorities concerned rejecting the claim of the petitioner-Senior Citizen are perfectly valid and legal and the same may kindly be upheld.

10. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

11. Prima facie keeping in view the fact that the proceedings have been initiated by the petitioner-Senior Citizen after the property in question was transferred back by the father of respondent No.3 i.e. son of the senior

citizen shows that the same is the proxy litigation by the son by taking shelter behind his mother (Senior Citizen) so as to invoke the jurisdiction under the 2007 Act.

12. Further, there is a matrimonial dispute between the father and mother of respondent No.3. The father wants to get the 50% of the property which was transferred by petitioner-Senior Citizen mother of respondent No.3 back so that, the mother and the son i.e. respondent No.3 should succumb before him and they are ousted from the property in question. After the transfer of the property by the senior citizen vide transfer deed dated 26.09.2019 (Annexure P-1), this modus operandi has been adopted by the father to get the litigation initiated through his mother (Senior Citizen) to get the property back his own son (respondent No.3).

12. Further, in order to prove the requisites of Section 23 of the 2007 Act, it is must that senior citizen should prove that there was a Clause that the transferee will maintain the senior citizen and further that the transferee has failed to maintain the senior citizen.

13. In the present case, it is a conceded position which has been conceded by the learned counsel for the petitioner that there was no such clause that the transferee has to maintain the petitioner-Senior Citizen.

14. Even if it is assumed for the sake of arguments that the transferee has to maintain the petitioner-Senior Citizen the question which arises in that whether, in the facts and circumstances of the present case, the maintenance is required by the senior citizen or not.

15. It is a conceded position that the property in question which was equally transferred between the father and the son i.e. the respondent

No.3, half of the property was already returned back by the father back in favour of his mother (Senior Citizen) prior to the initiation of the litigation which shows that half of the property is still being owned by the petitioner-Senior Citizen from which, she can maintain herself. Not only this, her husband is alive and the responsibility to prima facie maintain her is of her husband. Further, there is already other property in the name of senior citizen from which she is getting rent apart from the property which has been returned back by her son prior to the initiation of the litigation, from which finances, the senior citizen can maintain herself.

16. Keeping in view the totality of the circumstances wherein, the present litigation is not a bona fide litigation to get maintenance rather is a collusive attempt to oust the daughter-in-law and the grandson who is respondent No.3 from the property concerned hence, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

17. Present petition stands dismissed.

18. Pending application, if any, also stands disposed of.

09-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO