



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

212

**CWP-2058-2023 (O&M)
Decided on : 05.05.2025**

SARABJIT KAUR

..PETITIONER

Versus

ADDITIONAL DEPUTY COMMISSIONER CUM APPELLANT
TRIBUNAL PATIALA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. S. S. Sarwara, Advocate and
Mr. Gurmeet Singh, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Satwant Singh Ranghi, Advocate
for respondent No. 3.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge at the hands of the petitioner is to the impugned order dated 28.10.2022 (Annexure P-6) passed by the Appellate Authority exercising jurisdiction under the Maintenance & Welfare of Parents & Senior Citizen Act, 2007 (hereinafter referred as 2007 Act) by which, the order dated 19.04.2022 (Annexure P-4) passed by the Tribunal recording a finding therein that since the respondent No. 3-senior citizen has not been able to prove that the ingredients of Section 23 of the 2007 Act have been fulfilled, so as to transfer the land back in favour of respondent No. 3-Senior Citizen, thereby dismissing the claim of the



respondent No. 3-senior citizen, has been set-aside by the appellate authority vide its impugned order so as to cancel the transfer deed dated 20.02.2014 (Annexure P-1) in favour of the petitioner at the hands of the respondent No. 3.

2. Learned counsel for the petitioner (widow daughter of respondent No. 3-senior citizen) argues that without appreciating the conditions stipulated under Section 23 of the 2007 Act, the Appellate Authority has passed an order canceling the vasika NO. 4410 dated 20.02.2014 (Annexure P-1) by which, 5 kanal 16 marla was transferred in favour of the petitioner (daughter of respondent No. 3-senior citizen) by the respondent No. 3-senior citizen. Learned counsel for the petitioner further submits that even though, no such condition was put in the transfer deed that the transferee i.e. the petitioner is liable to maintain the transferor i.e. respondent No. 3-Senior Citizen, who is the father of the petitioner-widow daughter of respondent No. 3/senior citizen.

3. Learned counsel for the petitioner further argues that even the father of the petitioner i.e. respondent No. 3-Senior Citizen has not been able to prove that he has not been maintained by his daughter consequent to transfer of land. Learned counsel for the petitioner further argues that out of the total land owned by the respondent No. 3-father of the petitioner a part of it was also given to the son of respondent No. 3 i.e. brother of the petitioner and the father of the petitioner i.e. respondent No. 3- senior citizen is living with the brother of the petitioner and now, upon the instigation of the brother of the petitioner that the petitioner already has enough land from her in-laws, the land in question is being malafidely claimed back by the respondent No.



3-Senior Citizen (father of the petitioner) by misusing the provisions of 2007 Act without proving that as to how, the respondent No. 3-Senior Citizen (father of the petitioner) has not been maintained by his daughter- petitioner.

4. Learned counsel for the petitioner further submits that all these facts have been ignored by the appellate authority while passing impugned order and rather only on the ground that the land owned by in-laws of the petitioner-widow daughter of respondent No. 3/senior citizen is more than the land owned by the respondent No. 3-senior citizen and that she has more means than her father-respondent No. 3-Senior Citizen vasika NO. 4410 dated 20.02.2014 (Annexure P-1) has been cancelled vide order dated 28.10.2022 (Annexure P-6), which is not the condition requisite/ingredient of provision of Section 23 of the 2007 Act.

5. Learned counsel for the respondent No. 3-senior citizen submits that as of now, the respondent No. 3-senior citizen is living alone though, earlier, the respondent No. 3-senior citizen was living with his son and respondent No. 3-senior citizen has already bifurcated his land between his children i.e. the petitioner (widow daughter of respondent No. 3-senior citizen) and son of respondent NO. 3-senior citizen, but no one is taking care of him.

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

7. It is a conceded fact that the respondent No. 3-senior citizen had transferred 5 kanal of land in the favour of the the petitioner (widow daughter of respondent No. 3-senior citizen) and had transferred about 20 kanal in the favour of son of the senior citizen i.e. brother of the petitioner. It is also a



conceded position that after the transfer of the property between petitioner and her brother the respondent No. 3-senior citizen has been living with his son/brother of the petitioner whereas, the petitioner is living in her matrimonial house. The only reasons given by the respondent No. 3-senior citizen to get to the land back is that the petitioner (widow daughter of respondent No. 3-senior citizen) is having a sound financial position and her in-laws have more than 150 acres of land in their name. The same also been taken as a ground by the Appellate Authority to cancel the transfer deed dated 20.02.2014 (Annexure P-1) made by the senior citizen in favour of the petitioner (widow daughter of respondent No. 3-senior citizen).

8. It may be noticed that, a transfer deed wherein land has been transferred by senior citizen can only be cancelled in case, the ingredients/ requisites of provisions of Section 23 of the 2007 Act are fulfilled. The said ingredients/ requisites of provisions of Section 23 of the 2007 Act are that the transfer of land by the senior citizen should be made by stipulating condition that a transferee will maintain transferor-senior citizen and that the transferor has subsequent to the transferee failed to maintain the transferor-senior citizen despite transfer of land in his/her favour.

9. In the present case, the petitioner (widow daughter of respondent No. 3-senior citizen) is already living in her matrimonial house whereas, the respondent NO. 3-senior citizen is living with his son. The petitioner (widow daughter of respondent No. 3-senior citizen) was only given 5 kanals of the land whereas, 20 kanals of the land were given to the son of the respondent No. 3-senior citizen. The senior citizen (respondent No. 3) has raised a claim that he has not been maintained by the petitioner (widow daughter of



respondent No. 3-senior citizen) despite the fact that she was living in her matrimonial house. Nothing evident has come on record to show that as to how, the petitioner (widow daughter of respondent No. 3-senior citizen) who is living in her matrimonial house can maintain her father. Further nothing has come on record to show as to why, no such claim of maintenance is raised by respondent No. 3-Senior citizen against his son with whom the respondent No. 3-Senior citizen was living and has got 20 kanals of land from respondent No. 3-Senior citizen.

10. Totality of the circumstances show that the present litigation is at the instance of the brother of the petitioner who wants 5 kanals of land back that was given to the petitioner (widow daughter of respondent No. 3-senior citizen) by respondent No. 3-Senior citizen and that too only on the ground that the in-laws of the petitioner (widow daughter of respondent No. 3-senior citizen) have enough land.

10. Keeping in view the totality of the circumstances, without appreciating all the facts, a reasoned order dated 19.04.2022 (Annexure P-4) passed by the Tribunal has been set-aside by the appellate authority vide impugned order dated 28.10.2022 (Annexure P-6). The said order dated 28.10.2022 (Annexure P-6) is perverse to the fact and evidence that have come on record as, no findings have been recorded by Tribunal while passing impugned order as to how, the requisite of Section 23 of the 2007 have been fulfilled so as to pass an order allowing the senior citizens to get the land back, which was transferred in favour of the petitioner (widow daughter of respondent No. 3-senior citizen).

Further, the allegations of respondent No. 3-senior citizen that



he has not been maintained by the petitioner has not been proved, hence, the order(s) passed by the Appellate Authority dated 28.10.2022 (Annexure P-6) is perverse to the facts and evidence brought on record and the same cannot be sustained and the same is accordingly set-aside

11 Keeping in view of the above, the present petition is allowed in above terms. Order passed by the labour Court dated 19.04.2022 (Annexure P-4) is restored.

12. Pending civil miscellaneous application, if any, stands disposed of with the above observation.

(HARSIMRAN SINGH SETHI)
JUDGE

05.05.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No