
(2016) 01 P&H CK 0115
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 1147 of 2014 (O&M)

Sucha Singh Sandhu

APPELLANT

Vs

Appellate Tribunal and others

RESPONDENT

Date of Decision : 22-01-2016

Acts Referred:

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 — Section 6(1)

Citation : (2016) 2 CivCC 428 : (2016) 2 HLR 166 : (2016) 3 LawHerald 2171 :
(2016) 2 PLR 228 : (2016) 2 RCRCivil 911

Hon'ble Judges : Rajesh Bindal, J.

Bench : Single Bench

Advocate : S.S. Behl, Advocate, for the Respondent

Final Decision : Disposed off

Judgement

Rajesh Bindal, J. - Challenge in the present petition is to the order dated 12.11.2013 (Annexure P-12), passed by the Appellate Tribunal, constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "the Act"), (hereinafter described as "the Appellate Tribunal"), vide which the order dated 21.6.2013, passed by Sub Divisional Magistrate-cum-Tribunal (for short, "the Tribunal"), was modified.

2. Learned counsel for the petitioner submitted that in the case in hand, the petitioner filed an application before the Tribunal under the Act for declaring the transfer deed dated 4.5.2011 as void. The same was allowed by the Tribunal vide order dated 21.6.2013. Though in terms of the provisions of the Act, an appeal could be filed only by the senior citizen, if aggrieved against the order passed by the Tribunal, however, in the appeal filed by the son and daughter-in-law of the petitioner, who is a senior citizen, the order passed by the Tribunal was modified. Once in terms of the provisions of the Act, the appeal itself was not maintainable, the order passed by the Appellate Tribunal is totally without jurisdiction.

3. On the other hand, learned counsel for respondents No. 3 and 4, while not disputing the fact that the appeal before the Appellate Tribunal is maintainable only on behalf of the senior citizen, sought to justify the order on merits. He further submitted that separate CWP No. 5304 of 2014- Khushwant Singh and another v. Appellate Tribunal and others has been filed by respondents No. 3 and 4 challenging even the order passed by the Tribunal.

4. Heard learned counsel for the parties and perused the paper book.

5. The undisputed facts on record are that the petitioner filed a petition before the Tribunal seeking a declaration that the transfer deed dated 4.5.2011 got executed from him, was bad. The Tribunal, vide order dated 21.6.2013, accepted the petition filed by the petitioner. In terms of Section 16(1) of the Act, only a senior citizen is entitled to file appeal against the order passed by the Tribunal. The same is extracted below:

"16. Appeals.- (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal.

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

xx xx xx

6. As in the case in hand, the petitioner, a senior citizen, was not aggrieved against the order passed by the Tribunal, there was no need for him to file appeal, however, his son and daughter-in-law, against whom the order was passed, preferred appeal which, in terms of the provisions of the Act, was not maintainable.

7. For the reasons mentioned above, the impugned order passed by the Appellate Tribunal is set aside, being without jurisdiction. However, the same will not prejudice the rights of respondents No. 3 and 4 in the separate writ petition.

8. The writ petition stands disposed of accordingly.