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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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DATE OF DECISION: 13.07.2026

HARJINDER KAUR ALIAS RAJINDER KAUR AND ANOTHER

... Petitioner (s)

Versus

APPELLATE TRIBUNAL CUM DISTRICT MAGISTRATE
LUDHIANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. R.S. Dadwal, Advocate for the petitioners.

KIRTI SINGH, J. (ORAL)

1) The present writ petition has been filed under Articles 226/227 of the Constitution of India for quashing of the order 15.4.2026 (Annexure P-9) passed by the learned Appellate Tribunal-cum-District Magistrate, Ludhiana, whereby the appeal filed by respondent No.3 accepted and order passed by the learned Tribunal-cum-Sub Divisional Magistrate, Jagraon dated 31.05.2023 (Annexure P-2) has been set aside and the matter was remanded back to the Tribunal-cum-Sub Divisional Magistrate, Jagraon for fresh adjudication.

2) At the outset, learned counsel for the petitioners has argued that the concept of remanding the case by the Appellate Authority back to the Tribunal to pass a fresh order is *ex facie* illegal, arbitrary and without jurisdiction, inasmuch as sub-Section (4) of Section 16 of the Maintenance



and Welfare of Parents of Senior Citizens Act, 2007 (hereinafter referred to as 'the Act, 2007) only empowers the Appellate Tribunal to either allow or reject the appeal given the object and purpose of the Act and the summary nature of the proceedings mentioned therein and does not confer any power in the Appellate Tribunal to remand the matter back. However, vide impugned order dated 15.04.2026, the learned Appellate Tribunal proceeded to remand the matter back to the Maintenance Tribunal-cum-Sub Divisional Magistrate, Jagraon for a fresh decision, which even otherwise is based on misappreciation of facts. Learned counsel also submits that the learned Appellate Authority should have passed an appropriate order which it deemed fit rather than remanding the case back to the Maintenance Tribunal-cum-Sub Divisional Magistrate, Jagraon.

3) Notice of motion.

4) Ms. Aakanksha Gupta, AAG, Punjab accepts notice on behalf of respondents No. 1 & 2-State.

5) Heard.

6) The provision of Section 16 of the Act, 2007 if read in light of the purpose and objective of the Act, can be interpreted to mean that an appeal is preferred against an order, the Appellate Authority is required to consider all the aspects and decide about the validity of the said order. In case the order is valid, the same should be upheld and in case of finding any perverse illegality, the said order should be set aside by giving due reasons for the conclusion arrived at.

7) Moreover, the issue with regard to the jurisdiction of the Appellate Tribunal to remand the case before it, is no longer *res integra*. The



Coordinate Bench of this Court in **Surindera Devi's case (supra)**, after recording detailed analysis, held that the Appellate Authority has no power to remand a case back. The relevant paragraph of the said judgment are as under:-

“6. In this background, the meaning and intent of Section 16 of the Act assumes even more significance inasmuch as a bare reading of the same would reveal that while the appellate authority has been specifically conferred the power to examine the appeal and the records and either call for same before it from the Tribunal and thereafter either to allow it or reject it. The words ‘remand’ are missing in Section 16 of the Act, unlike the case under Order 41 Rules 23 and 25 of CPC where the appellate Court is specifically conferred the power of remand. In that context, for better appreciation the said Rules are reproduced herein below: “Order 41 Rule 23 of CPC Remand of case by Appellate Court : Where the Court from whose decree an appeal is preferred has disposed of the suit upon a preliminary point and the decree is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the Court from whose decree the appeal is preferred, which directions to re-admit the suit under its original number in the register of civil suits, and proceed to determine the suit; and the evidence (if any) recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.” XXXXXXXX 25. Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from – Where the Court from whose decree the appeal is preferred has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate court essential to the right decision of the suit upon the merits, the Appellate court may, if necessary, frame issues, and refer the same for trial to the Court from whose decree the appeal is preferred, and in such case shall direct such Court to take the additional evidence required; And such Court shall proceed to try such issues, and shall return the evidence to the Appellate Court together with its findings thereon and the reasons therefor within such time as may be fixed by the Appellate Court or extended by it from time to time.”

7. In the totality of circumstances and as an upshot of the above discussion, I am of the view that the appellate Tribunal is not conferred with the power of remand under Section 16 of the statute and upon entertaining the appeal must either reject or accept the same, wholly or partly as the case may be. Therefore, the impugned appellate order herein is not sustainable and is accordingly set- aside. The matter is remanded back to the appellate Tribunal for fresh consideration and adjudication. The parties are at liberty to move appropriate application before the appellate Tribunal.”

8) Reverting to the case in hand, it was incumbent upon the



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Appellate Authority to decide the appeal on merits by giving due reasons for the conclusion arrived at.

9) Hence, the order passed by the Appellate Authority remanding the case back is beyond its jurisdiction and cannot be sustained in view of the settled principle of law noticed hereinbefore. Accordingly, the order dated 15.4.2026 (Annexure P-9) passed by the Appellate Authority is set aside on this ground alone. The Appellate Authority is directed to pass a fresh order on the appeal preferred by respondent No.3. Since the litigating parties include senior citizens, let the Appellate Authority pass appropriate order within a period of two months from the date of receipt of certified copy of this order. The parties are directed to appear before the Appellate Authority on 04.8.2026.

10) Petition stands disposed of in above terms.

11) Civil miscellaneous application(s) pending, if any, are also disposed of.

(KIRTI SINGH)
JUDGE

July 13, 2026

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No