

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

208

CWP-39-2023 (O&M)

Date of Decision : November 04, 2025

SANTOSH AND OTHERS

-PETITIONERS

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Kshitij Bharati, Advocate
for the petitioners.

Mr. Bhupender Singh, Addl. A.G., Haryana.

Mr. B.K. Bagri, Advocate
for the respondent No.4.

KULDEEP TIWARI, J. (ORAL)

1. The present writ petition assails the order dated 28.07.2022, passed by the Maintenance Tribunal, Bawal, whereby the application filed by respondent No.4 under Sections 4, 5, 9 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) was allowed, resulting in the cancellation of Transfer Deed No.573 dated 22.06.2015, executed in favour of petitioner No.1. The petitioners have also challenged the subsequent order dated 30.11.2022, passed by the Maintenance Appellate Tribunal, Rewari, dismissing their statutory appeal against the order dated 28.07.2022.

2. In assailing the impugned orders, learned counsel for the petitioners commenced by narrating the sequence of events leading to the execution of the transfer deed in question. It is submitted that respondent No.4- Smt.Mangti, who is presently aged about 82 years, has two daughters,

namely Santosh Devi (petitioner No.1) and Leela Devi (respondent No.5). Respondent No.4 inherited 31 Kanals and 07 Marlas of land from her father, out of which she executed a release deed dated 29.09.2014 in favour of her daughter/respondent No.5 for 16 Kanals and 05 Marlas. Since petitioner No.1 was not given any share in the ancestral property, she raised objection before her mother/respondent No.4, whereupon respondents No.4 and 5 mutually agreed to execute a joint transfer deed transferring 04 Kanals and 06 Kanals of land respectively from their shares in favour of petitioner No.1.

3. Referring to the aforesaid sequence of events, learned counsel for the petitioners submits that the application before the Maintenance Tribunal was filed by respondent No.4 at the instance and instigation of respondent No.5. It is contended that the transfer deed does not contain any recital or condition requiring the transferee/petitioner No.1 to maintain or provide basic amenities to the transferor/respondent No.4, and that the execution of the transfer deed was purely a component of a family partition. To fortify this submission, it is emphasized that respondent No.5, who was not a senior citizen, was also a co-executant to the transfer deed, having transferred 06 Kanals of land to the petitioner No.1. In the absence of any express condition in the transfer deed, respondent No.4 is estopped from invoking Section 23 of the Act of 2007 to seek its cancellation.

4. It is further argued that the Maintenance Tribunal and the Maintenance Appellate Tribunal failed to properly examine whether the transfer deed or the contents of the application justified the invocation of Section 23 of the Act.

5. With respect to the issue of maintenance, learned counsel for the petitioners submits that subsequent to the execution of the transfer deed,

respondent No.4 sold one acre of land for approximately ₹22,00,000/- and has also been receiving old-age pension of about ₹3,200/- per month. Nonetheless, petitioner No.1 is willing and ready to maintain her mother, as she holds deep respect and affection for her.

6. Conversely, learned counsel for respondent No.4 vehemently opposes the submissions of the petitioners. It is submitted that the application filed before the Maintenance Tribunal specifically mentioned that the transfer deed was executed subject to the condition that the transferee would maintain and provide basic amenities to the senior citizen/transferor. However, petitioner No.1 not only failed to honour the said obligation, but also assaulted respondent No.4, leading to the lodging of multiple police complaints.

7. It is further contended that respondent No.4 was dependent upon the land transferred to petitioner No.1, and therefore, the Maintenance Tribunal, while discharging its statutory duty to protect and ensure the welfare of the senior citizen, rightly cancelled the transfer deed. Thus, the impugned orders warrant no interference by this Court.

8. This Court has considered the submissions advanced by learned counsel for the parties and perused the record. In order to adjudicate the dispute at hand, it is deemed imperative to begin with examining Section 23 of the Act of 2007, which is reproduced hereunder:-

“23. Transfer of property to be void in certain circumstances.—

(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical

needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.”

9. The Act of 2007 was enacted to uphold the traditional norms of Indian Society emphasizing the duty of children and relatives to provide for senior citizens. Accordingly, its provisions must be interpreted to achieve the legislative intent, while ensuring that the Act is not misused for the resolution of ordinary civil or property disputes within families.

10. A perusal of Section 23 reveals that where a senior citizen has, after commencement of the Act, transferred his property by way of gift or otherwise, subject to the condition that the transferee shall provide for his basic amenities and physical needs, and such transferee fails or refuses to do so, the Maintenance Tribunal is empowered to declare such transfer to have been made by way of fraud, coercion, or undue influence.

11. Having considered the matter in its entirety, this Court is of the view that the impugned orders are unsustainable in law and warrant interference. The reasons for drawing this inference are penned down hereinafter.

12. The transfer deed in question contains no recital or

stipulation indicating that the transfer was conditional upon the transferee maintaining or providing basic amenities to the transferor. While an application under Section 23 may, in certain circumstances, be maintainable even absent an express condition, the facts of the present case do not justify such invocation.

13. As regards the contention of respondent No.4 that the application before the Maintenance Tribunal specifically embodied the plea regarding condition (supra), this Court finds no material or corroborative evidence on record to substantiate that plea. The materials on record demonstrate that the transfer was part of a family arrangement, particularly as the transfer deed was executed jointly by respondent No.4 and respondent No.5, who was not a senior citizen at the relevant time, transferring portions of their respective shares to petitioner No.1.

14. With respect to the alleged dependency of respondent No.4, it is apparent from the record that respondent No.4 is not dependent upon the land in question, as she subsequently sold one acre of land for approximately ₹22,00,000/- and has also been drawing an old-age pension from the State Government.

15. The Maintenance Tribunal as well as the Maintenance Appellate Tribunal failed to consider these crucial aspects. No effort was made to determine whether, in the absence of a conditional transfer, Section 23 could be validly invoked. The orders passed are thus mechanical and unsustainable. Accordingly, the **impugned orders are hereby set aside.**

16. Now, the issue arises whether petitioners remain liable to provide maintenance to respondent No.4. In this regard, reference is made to sub-

section (2) of Section 23 of the Act of 2007. Since petitioners continue to hold the benefit of the estate transferred by respondent No.4, the latter retains the right to claim maintenance. Moreover, learned counsel for the petitioners has, at the outset, voluntarily offered to provide reasonable maintenance. Accordingly, the petitioners are collectively directed to pay a sum of ₹5,000/- per month as maintenance to respondent No.4, to be deposited on or before 10th day of every month, in her Account No.38521129793, State Bank of India, Branch: Sir Chhotu Ram Chowk, Bawal, District Rewari, Branch Code: 6238. This maintenance shall be payable w.e.f. 01.01.2025. The arrears of maintenance shall be paid in bank account of respondent No.4 within two weeks from today.

17. In case of dereliction to comply with the directions (supra), respondent No. 4 shall be at liberty to make an appropriate motion for revival of the present writ petition.

18. Disposed of accordingly.

19. Pending application stands disposed of accordingly.

November 04, 2025
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No