

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

101

CWP-5941-2022 (O&M)

Date of Decision : December 11, 2025

RAJ KUMAR MISHRA

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner.

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

Ms. Varsha Chaudhary, Advocate, for
Mr. Sandeep Singh Jattan, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. The present writ petition assails the order dated 17.09.2021, whereby the respondent No.2- Additional Deputy Commissioner-cum-District Magistrate, Yamuna Nagar, has ordered the eviction of the petitioner from the house in question, on an application filed by the respondent No.3 (a senior citizen and father of the petitioner) under Sections 22 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”).

2. The primary contention of learned counsel for the petitioner is that the impugned order has been passed by an authority lacking statutory jurisdiction and, therefore, deserves to be set aside on this ground alone. It is submitted that the impugned order has been passed by the respondent No.2 in pursuance of the “Action Plan for the Protection of Life and Property of Senior Citizens,” notified under Section 22(2) of the Act of 2007 read with Rule 24 of

the Haryana Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (hereinafter referred to as “the Rules of 2009”), vide notification dated 26.05.2015. However, prior to the passing of the impugned order, a Co-ordinate Bench of this Court, vide order dated 23.01.2020, passed in CWP-4744-2018, titled “Simrat Randhawa v. State of Punjab and Others”, had already struck down Clauses 1 to 3 of the said Action Plan, namely: (1) Procedure for eviction from property/residence building belonging to/occupied by senior citizens/parents; (2) Eviction order from property/residential building of senior citizens/parents; and (3) Enforcement of orders. Although the State of Haryana has preferred an LPA against the order dated 23.01.2020, no stay has been granted by the LPA Bench. Consequently, the impugned order, having been passed despite the apposite clauses of the Action Plan having been invalidated and by an authority devoid of jurisdiction, stands vitiated being passed *coram non judice*.

3. On the previous date of hearing, i.e. 01.12.2025, this Court passed the following order:-

“Learned counsel for the State, is directed to have apt instructions from the quarter concerned, and apprise this Court, on the next date of hearing, as to how, the application under Section 22 and 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, has been entertained by the learned Additional District Magistrate, Yamuna Nagar, specifically, in view of the State Government notification dated 26.05.2015.

List this matter on 11.12.2025, for arguments.

To be shown in the urgent list.

It is made clear that on the next date of hearing, no request for an adjournment on behalf of either of the parties concerned, shall be entertained.”

4. Today, learned State counsel submits that following the judgment dated 23.01.2020 and in the absence of any stay granted in the pending LPA, the Director General, Social Justice, Empowerment, Welfare of SC & BC and Antyodaya (SEWA) Department, Haryana, issued a communication dated

19.01.2023 directing all District Magistrates in Haryana not to act in accordance with Clauses 1 to 3 of the Action Plan (*supra*). It is, therefore, submitted that the application filed by the respondent No.3 ought to have been entertained and adjudicated by the Maintenance Tribunal, duly notified under the apposite Act and the Rules.

5. This Court has heard learned counsel for the parties and examined the record.

6. This Court has no hesitation in holding that the impugned order is *per se* illegal, having been passed by an authority lacking statutory jurisdiction. Accordingly, the **impugned order is set aside** and the **matter is remanded to the Maintenance Tribunal for fresh adjudication**. The respondent No.2 is directed to, on receipt of a certified copy of this order, forthwith transmit the original application to the Maintenance Tribunal. The parties are directed to cause appearance before the Maintenance Tribunal on 23.12.2025 at 11:00 a.m., whereafter the latter shall endeavour to decide the matter preferably within four months, in strict compliance with the Act of 2007 and the applicable Rules, and only after affording due opportunity of hearing and permitting the parties to adduce evidence, if any. The Maintenance Tribunal shall decide the application afresh on its own merits, uninfluenced by any observations contained in the impugned order.

7. **Disposed of accordingly.**

8. Pending application also stands disposed of accordingly.

December 11, 2025
devinder

(KULDEEP TIWARI)
JUDGE

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