

CWP-15348-2021 (O&M)
Date of Decision : 24-07-2025

SURINDER KAURPetitioner

VERSUS

**DEPUTY COMMISSIONER CUM APPELLATE TRIBUNAL,
SENIOR CITIZEN MOGA PUNJAB AND ORS**Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mohit Jasuja, Advocate for
Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Aryan Sharma, Advocate for
Mr. Charanjit Singh Bakshi, Advocate
for respondent Nos.3 to 6.

Mr. Saurabh Kapoor, Advocate
For respondent No.7 (***joined through V.C.***).

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the orders passed by the Tribunal exercising jurisdictions under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as “2007 Act”) dated 20.03.2020, copy of which has been appended as Annexure P-2 by which, the claim of the Senior Citizen so as to revert the property back from the petitioner herein was allowed despite the fact that before adjudication of the said claim on 20.03.2020 (Annexure P-2), the Senior Citizen had already died.

2. Learned counsel for the petitioner submits that the appeal preferred by the petitioner against the order of Tribunal dated 20.03.2020 (Annexure P-2), has been rejected by the Appellate Tribunal without

appreciating the fact as to whether, the Senior Citizen could be represented by the legal heirs in a proceeding before Tribunal exercising jurisdiction under the 2007 Act. The said decision dated 02.03.2021 (Annexure P-1) passed by the Appellate Authority exercising jurisdiction under the 2007 Act is also under challenge in the present petition.

3. Learned counsel for the petitioner argues that the benefit of reversion of the property in question is given to the Senior Citizen under Section 23 of the 2007 Act whereas, after filing of the application, for reversion of the property in question before authorities exercising jurisdiction under the 2007 Act, before the necessary ingredients stipulated under Section 23 of the 2007 Act which are required to be fulfilled to get the property back by the Senior Citizen and proved, the Senior Citizen died but still, the same was adjudicated upon by authorities concerned, which was beyond the jurisdiction of the Tribunal as, no legal heir could have been impleaded in place of the Senior Citizen as the benefit of reversion under Section 23 of the 2007 Act can only be given to the Senior Citizen and not the legal heirs.

4. Learned counsel submits that without appreciating the said facts, the Tribunal vide order dated 20.03.2000 (Annexure P-2) allowed the claim of the Senior Citizen after his death, which was incorrect.

5. Learned counsel appearing on behalf of the respondents does not dispute the fact that the Senior Citizen died immediately after filing an application for reversion of the property under Section 23 of the 2007 Act, and upon the adjudication of such application but submits that once, the legal heirs i.e. the daughters of the Senior Citizen were there, they were very much within the jurisdiction to pursue the claim putforth by the Senior

Citizen and the Tribunal as well as the Appellate Tribunal exercising jurisdiction under the 2007 Act have rightly reverted the property in question to the Senior Citizen.

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

7. It should be noted that while adjudicating upon an issue under the 2007 Act, the purpose for which this act has been enacted has to be kept in mind. The 2007 Act has been enacted to ensure that the Senior Citizen lives with dignity, has financial security and is protected and in case, any fraud has been played upon the Senior Citizen so as to make him/her transfer property, Section 23 of the 2007 Act comes into play and as soon as ingredients of Section 23 are proved, the property can be reverted back to the Senior Citizen.

8. In the present case, the Senior Citizen died immediately upon the filing of the application to get his property back without proving the necessary ingredients of Section 23 of the 2007 Act that he was not being maintained by the petitioner so as to claim the property in question back.

9. Once, the Senior Citizen has not been able to prove before his death the requisites of Section 23 of the 2007 Act, the legal heirs cannot step into the shoes of the Senior Citizen to prove the same as, it is the duty of the Senior Citizen to prove the requisites of Section 23 of the 2007 Act and get the land back for his own personal use to live a dignified life and the said right does not devolve upon the legal heirs of the Senior Citizen.

10. The Tribunal without appreciating the said fact, allowed the legal heirs to step into the shoes of the Senior Citizen without there being

any provisions under the 2007 Act which could back up such action of the Tribunal .

11. Learned counsel for the respondents have not been able to point out any such provision under the 2007 Act which allows that the legal heirs can step in place of Senior Citizen qua the claim of the Senior Citizen to get the property back in case, the Senior Citizen dies before even proving the ingredients of Section 23 of the 2007 Act.

12. Keeping in view the totality of the circumstances, the orders passed by the Tribunal dated 20.03.2020 (Annexure P-2) and the order passed by the Appellate Authority dated 02.03.2021 (Annexure P-1) are perverse to the facts on record as well as to the provisions of the 2007 Act and cannot be sustained hence, they are accordingly set aside and the writ petition is allowed and impugned orders Annexure P-1 and Annexure P-2 are set aside.

13. At this stage, learned counsel for the respondent Nos.3 to 6 submits that the Senior Citizen had transferred the property in their name by way of Will hence, liberty be given to avail appropriate remedy before the Civil Court.

14. Learned counsel for the petitioner submits that the said remedy has already been availed by the respondents hence, no such permission is needed.

15. Pending application, if any, also stands disposed of.

24-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO