



CWP-14331-2024 (O&M) and
CWP-18070-2024 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

Date of Decision : 19.12.2025

1. CWP-14331-2024 (O&M)

Hari Partap

...Petitioner

Versus

Mukh Ram Saini (now deceased)
through his LRs and others

...Respondents

2. CWP-18070-2024 (O&M)

Mahabir Prasad Saini

...Petitioner

Versus

Sheela and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Mukesh Kumar Verma, Advocate
for the petitioner(s) in both the cases.

None for respondents in CWP-14331-2024.

Mr. Rose Gupta, Advocate
Ms. Anita Kumari, Advocate
Ms. Muskan, Advocate and
Ms. Nitasha Singhla, Advocate
for the respondents No.1 to 6 in CWP-18070-2024.

Mr. Kushagra Mahajan, Advocate
for respondent No.10 in CWP-18070-2024.

Mr. Kapil Bansal, DAG, Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Both the instant petition(s) are amenable to be decided together,

as the common legal issue has been raised through these petition(s), to throw a



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challenge to the impugned order(s) dated 14.12.2022 (Annexure P-9) in CWP-14331-2024, as well as order dated 16.01.2024 (Annexure P-15) in CWP-18070-2024, respectively, as passed by the learned Maintenance Tribunal, as well as, the learned Appellate Authority concerned. Therefore, the same are taken up together for adjudication.

2. Learned counsel for the petitioner(s) submits that a Single Member being Chairman, is not empowered to pass any order in view of the specific provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as 'the Act of 2007'), as well as, the notification dated 26.05.2015, issued by the State of Haryana, wherethrough, the jurisdiction is bestowed upon the learned Maintenance Tribunal concerned.

3. This Court, vide order dated 04.12.2025, had passed the hereinafter extracted order, upon the instant petition(s) :-

“The issue of jurisdiction has been raised by way of instant applications, asserting that the impugned orders are illegal and perverse, being hit by the principle of coram non judice.

To have a clear picture about the competence of the learned Appellate Tribunal, the Director, Social Justice & Empowerment Department, Haryana, is directed to file a specific affidavit dealing with the contents of the applications, and also, as to whether, a Single Member, as Chairman, is empowered to pass any order, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Further, all the notifications, along with Rules, in this regard, till date, shall also be made part of the affidavit.

Adjourned to 19.12.2025.

To be shown in the urgent list.



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It is made clear that, on the subsequent date of hearing, no request for adjournment would be entertained on behalf of either side.

A photocopy of this order be placed on the file of connected case.”

4. In deference to the directions (supra), affidavit of Mr. Prashant Panwar, Director, Social Justice Empowerment Welfare of SCs and BCs and Antyodaya (SEWA), Department, Haryana, filed today in the Court. The same is taken on record.

5. The affidavit (supra), speaks that the State Govt. has notified the Rules i.e. the Haryana Maintenance of Parents and Senior Citizens Rules, 2009 (hereinafter to be referred as ‘the Rules, 2009’), to implement/regulate the provisions of the Act of 2007. Rule 3 of the Rules 2009, provides for constitution of Maintenance Tribunal, in view of provisions of Section 7 of the Act of 2007, as per which there shall be Maintenance Tribunal comprising of three members, i.e. one official and two non-official members as prescribed therein, and the same will be presided over by Sub Divisional Magistrate.

6. Further, Rule 17 of the Rules 2009, deals with the constitution of Appellate Tribunal, in view of provisions of Section 15 of the Act of 2007. According to which, there shall be Appellate Tribunal comprising of three members, i.e. one official and two non-official members as prescribed therein, and the Tribunal will be presided over by the District Magistrate.

7. While referring to the legal propositions, the Director Social Justice Empowerment Welfare of SCs and BCs and Antyodaya (SEWA), Department, Haryana, took a stand that all orders are required to be passed by either the Maintenance Tribunal, or the learned Appellate Tribunal, and Sub



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her individual capacity to pass order under the Act of 2007. The relevant is extracted hereinafter :-

“5. That the Act, 2007 empowers the State Government to frame the rules in respect of such issues as prescribed therein. Therefore, in exercise of the said powers conferred upon the State Government, the State Government of Haryana has notified the rules namely the Haryana Maintenance of Parents and Senior Citizens Rules, 2009 (hereinafter referred to as the Rules, 2009) (Annexure R/1) to implement/regulate the provisions of the Act, 2007. Rule 3 of the Rules, 2009 provides for constitution of Maintenance Tribunal in view of provisions of section 7 of the Act, 2007, as per which there shall be Maintenance Tribunal comprising of three members i.e. one official and two non-official members as prescribed therein and the same will be presided over by Sub Divisional Magistrate. Further Rule 17 of the Rules, 2009 provides for constitution of Appellate Tribunal in view of provisions of section 15 of the Act, 2007, as per which, there shall be Appellate Tribunal comprising of three members i.e. one official and two non-official members as prescribed therein and the same will be presided over by District Magistrate. Therefore all orders are required to be passed by Maintenance Tribunal or Appellate Tribunal and Sub Divisional Magistrate or District Magistrate cannot drive independent jurisdiction in his/her individual capacity to pass order under the Act, 2007.

6. That in view of the provisions mandated under the Act, 2007 and the Rules, 2009, the State Government of Haryana has constituted the Maintenance and Appellate Tribunals, time to time, through issuing gazette notification. As such, vide notification dated 17.11.2016. Tribunals were reconstituted by the State Govt., terms of which came to an end on 16.11.2019. Thereafter, Tribunals



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were re-constituted vide notification dated 08.12.2020 and these tribunals remained in force till 07.12.2023. Thus, there were no tribunals in the State between the period of 17.11.2019 to 07.12.2020. Further, the tribunals in district Rewari, which are presently in existence, have been constituted vide notification dated 01.04.2025. Thus, there were no tribunals in the district Rewari between the period of 07.12.2020 to 31.03.2025.

7. That in the present matter order dated 21.01.2020 passed by SDM and order dated 16.01.2024 passed by DM, as referred in CM No. 16022 of 2025, were passed subsequent to the expiry of the aforesaid tenure at a point of time when the said Maintenance Tribunals were not in existence and the requisite quorum was not complete. Further, order dated 07.02.2020 passed by SDM and order dated 14.12.2022 passed by DM, as referred in CM No. 16049 of 2025, were passed subsequent to the expiry of the aforesaid tenure at a point of time when the said Maintenance Tribunals were not in existence and in the absence of the requisite quorum respectively.”

8. In view of the above specific stand, that the order(s) suffers from *corum non judice*, the impugned order(s) are **set aside**, and the *lis* is **remanded back** to the learned Maintenance Tribunal concerned, to decide the matter afresh. Since the matters are pending since long, a specific *mandamus* is passed upon the learned Maintenance Tribunal concerned, to make all endeavours to decide the *lis* within a period of three months, from the date of receipt of certified copy of this order. Further, in case, any application for stay, alienation or any other relief if filed therewith, by either of the parties concerned, it is expected from the learned Tribunal concerned, that the same shall be decided most sympathetically, in accordance with law.

9. Consequently, both the instant petition(s) are **disposed of**.
10. Pending applications, if any, stands disposed of accordingly.
11. Photocopy of this order be placed on the connected case file, as
numbered above.

(KULDEEP TIWARI)
JUDGE

December 19, 2025
Manpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No