

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

103

CWP-15443-2019

Date of Decision : September 11, 2025

ANKIT AND OTHERS

-PETITIONERS

V/S

SANTOSH DEVI AND ANOTHER

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Mukesh Kumar Verma, Advocate
for the petitioners.

Mr. P.S. Chauhan, Advocate with
Mr. Rahul Sangwan, Advocate and
Ms. Manita Dalla, Advocate
for the respondent No.1(a).

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

KULDEEP TIWARI, J. (ORAL)

1. The respondent No.1 filed a petition under Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007') before the Maintenance Tribunal concerned, seeking cancellation of Vasika No.92 dated 12.04.2017, as executed by her in favour of the petitioners. This petition was dismissed by the Maintenance Tribunal by drawing the order dated 14.09.2018, which triggered the respondent No.1 to file thereagainst an appeal under Section 16 of the Act of 2007 before the Appellate Tribunal concerned. The Appellate Tribunal, by drawing the order dated 16.01.2019, allowed the appeal and set aside the Vasika No.92 dated 12.04.2017. This order dated 16.01.2019 caused pain to the petitioners

and propelled them to institute thereagainst the instant writ petition.

2. At the outset, learned counsel for the petitioners informed this Court that during the pendency of the instant writ petition, the senior citizen/respondent No.1 unfortunately passed away. Consequently, the proceedings initiated under Section 23 of the Act of 2007 on her behalf stand abated and are co-terminus with her demise. To support his submission, he relied upon an order passed by a Co-ordinate Bench of this Court dated 27.07.2022 in CWP-29487-2017.

3. Nonetheless, drawing the attention of this Court to Rule 17 of the Haryana Maintenance of Parents and Senior Citizens Rules, 2009 (hereinafter referred to as the 'Rules of 2009'), which prescribes that the Appellate Tribunal shall consist of three members, learned counsel for the petitioners submitted that the quorum of the Appellate Tribunal that passed the impugned order was incomplete, as it consisted of only two members. Consequently, the impugned order does not pass the test of legality and requires interference by this Court.

4. On the other hand, learned counsel representing the respondent No.1(a) submitted that the proceedings cannot abate, as consequential upon the passing of the impugned order, thus setting aside the Vasika concerned, a right accrued in favour of the deceased senior citizen, and upon her demise, the property would devolve in accordance with law. Therefore, the petitioners cannot claim that merely on account of the demise of the senior citizen, all the proceedings shall abate. To substantiate his submissions, he relied upon a verdict drawn by a Co-ordinate Bench of this Court on 29.09.2022, upon CWP-26286-2019, and

also upon a verdict drawn by a three Judge Bench of the Kerala High Court on 22.09.2020, upon W.A. No.1460 of 2015.

5. Although learned counsel for the respondent No.1(a) addressed arguments on merit, he fairly conceded that the impugned order has been passed by the Appellate Tribunal without its complete quorum. Resultantly, the *lis* can be remanded to the Appellate Tribunal for a fresh decision.

6. This Court has heard the submissions made by learned counsel for the contesting litigants, and has also perused the record.

7. There is no wrangle about the fact that the impugned order has been drawn by the Appellate Tribunal without its complete quorum, hence it does not pass the test of legality. Consequently, on account of the impugned order suffering from the vice of illegality, and in view of the consensus between the parties, the **impugned order is set aside** and the ***lis* is remanded to the Appellate Tribunal** for a fresh decision in view of the provisions of Rule 17 of the Rules of 2009. All the issues raised before this Court are open to be raised before the Appellate Tribunal. The Appellate Tribunal shall pass speaking order only after giving due opportunity of hearing to all the parties.

8. The parties are directed to maintain the order of *status quo* till decision is made by the Appellate Tribunal.

9. **Disposed of accordingly.**

September 11, 2025
devinder

(KULDEEP TIWARI)
JUDGE

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