

**CWP-12430-2016 (O&M)****-1-**

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

CWP-12430-2016 (O&M)
Date of decision: 18.08.2025

Davinder Kumar

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Deepak Aggarwal, Advocate,
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. Gurcharan Dass, Advocate,
for respondents No.4 and 5.

KULDEEP TIWARI, J. (Oral)

1. Through the instant writ petition, as cast under Articles 226/227 of the Constitution of India, challenge is thrown to the order dated 28.04.2016 (Annexure P-4), as passed by the learned District Magistrate, Patiala-respondent No.2, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (for short, 'the Act of 2007).

2. Succinctly put: the applicant-respondent No.4 (Satpal), filed an application under the provisions of the Act of 2007, which has been allowed by respondent No.2. Consequently, transfer deed dated 20.07.2002, which was registered vide deed No.2532 dated 26.07.2002, in favour of Pawan Kumar-respondent No.5, and Davinder Kumar-petitioner in equal shares, has been cancelled. Hence, this writ petition.

3. The principal contention advanced by learned counsel for the petitioner is that respondent No.2 lacked the subject jurisdiction to



adjudicate the issue, as the transfer deed, which was cancelled vide impugned order, was registered way back on 26.07.2002, whereas, the Act of 2007, came into force w.e.f. 31.12.2007. To buttress his contention, he places reliance upon a decision dated 07.04.2025, rendered by a Coordinate Bench of this Court in **CWP-8781-2016 (Ranjit Singh Vs. Deputy Commissioner, Mansa & Others)**, wherein, the transfer of the property, which occurred prior to the enforcement of the Act of 2007, was challenged. Accordingly, the writ petition (supra) was allowed, on the ground that, any land, which is subject matter of the Act of 2007, ought to have been transferred after the promulgation of the said Act.

4. Learned counsel for the private respondents, on the other hand, submits that the property in question was transferred in the name of petitioner and respondent No.5, with the clear understanding that they would take care of their old-aged father, but they miserably failed to do so. Therefore, there is no illegality or perversity in the impugned order, warranting interference by this Court. However, he is unable to cite any contrary decision to substantiate that the transfer, which was given effect to prior to the enforcement of the Act of 2007, can be put to test its legality.

5. This Court has heard the rival submissions advanced by learned counsel for the parties.

6. The only question that arises to be determined in the instant case is, as to whether, respondent No.2 was empowered to cancel the transfer, which was occurred prior to the commencement of the Act of 2007.



7. To answer the pivotal question, upon which the entire case of the petitioner is predicated, the observations made by the Coordinate Bench in Ranjit Singh's case (supra), shall have a decisive bearing, and same read as under:-

5. A bare perusal of the 2007 Act would show that the same received the assent of the President of India on 29.12.2007 and was published in Gazette on 31.12.2007 and the same only has a prospective effect.

6. Section 23 of the 2007 Act stipulates the circumstances under which the transfer of property by a senior citizen in favour of another can be treated as void. As per Section 23(1) of the 2007 Act, where a senior citizen after the commencement of 2007 Act has transferred the property by way of gift deed or otherwise, subject to the conditions that the transferee shall provide basic amenities and basic physical needs to the transferor-senior citizen and upon refusal of the transferee to provide the same, the transfer of the property has to be treated having been done by way of fraud or coercion. The relevant Section 23(1) of the 2007 Act is as under:-

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.



7. In the present case, it is a conceded position that the transfer of property was done in January 2007 i.e. much prior to the promulgation of 2007 Act. That being so, the said transfer of land in present case cannot be made subject matter of the litigation under 2007 Act.

8. Concededly, in the case at hand too, the property was transferred in the month of July, 2002, which was much prior to the enforcement of the Act of 2007. In such a situation, while applying the ratio of the decision (supra), it is clear that respondent No.2 did not have any subject jurisdiction to cancel the transfer in question. Further, Section 23 of the Act of 2007, as referred to even by the Coordinate Bench, in no uncertain terms, deals with the situations arise post commencement of the Act of 2007. Thus, apparently, the impugned order has been passed without jurisdiction.

9. In view of the above, the instant petition is **allowed**. Consequently, the impugned order dated 28.04.2016 (Annexure P-4) is hereby, set aside. However, respondent No.4 is at liberty to resort to the remedies, as shall be admissible to him, under the law.

(KULDEEP TIWARI)
JUDGE

18.08.2025
Ak Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No