

**CWP-17393-2018**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-17393-2018****Reserved on: 18.08.2025****Pronounced on: 10.11.2025****RANJIT KAUR****-PETITIONER****V/S****STATE OF HARYANA AND ORS.****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Arvinder Arora, Advocate
for the petitioner.

Mr. Naveen S. Panwar, D.A.G., Haryana.

Mr. Rakesh Bakshi, Advocate
for the respondent No.4.

*********KULDEEP TIWARI, J. (ORAL)**

1. The instant writ petition assails the order dated 19.06.2018 passed by the District Magistrate, Ambala, whereby the complaint preferred by respondent No.4 under Section 22(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) was allowed, directing the petitioner to vacate the house in question within thirty days.

2. Concisely and compendiously, respondent No.4, who is a senior citizen and the father-in-law of the petitioner, had initially instituted an application under Sections 4 and 5 of the Act of 2007 before the Maintenance Tribunal, Naraingarh, alleging facts substantially alike to those raised in the complaint (*supra*). Vide order dated 23.11.2015, the

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Maintenance Tribunal directed the petitioner to provide food to respondent No.4 three times a day for six months in a year, and for the remaining six months, Gurmeet Singh (son of respondent No.4) was made responsible for the same. Both the petitioner and Gurmeet Singh were further directed to pay a sum of Rs. 5,000/- each per month towards the maintenance of respondent No.4, with a stipulation that non-compliance of these directions would entail their eviction from the house in question. The relevant portion of the said order is reproduced below:

“I heard both the parties properly and file has been observed. Smt. Ranjit Kaur wife of Sh. Paramjit Singh will provide food for three time to her father in law Parkash Singh, for six months in a year and after six months Gurmeet Singh son of Sh. Parkash Singh will provide food for six months. Besides it, Ranjit Kaur will reside in lower portion of the house. Parkash Singh will reside in upper portion independently and Ranjit Kaur wife of Paramjit Singh and Gurmeet Singh son of Sh. Parkash Singh will give Rs. 5,000/- each to their father for his livelihood. Otherwise, they will evicted from his houses.”

3. Aggrieved by the order dated 23.11.2015, the petitioner preferred a statutory appeal under Section 16 of the Act of 2007 before the Appellate Tribunal, Ambala, which was dismissed vide order dated 28.03.2017. The efforts of the petitioner to get these orders set aside did not pause here, as she impugned those orders before this Court by filing CWP-14659-2017. A Co-ordinate Bench of this Court, vide order dated 11.10.2017, allowed the writ petition and set aside the orders passed by the Maintenance Tribunal and the Appellate Tribunal. It was, however, observed that if respondent No.4 was not inclined to reside with the

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petitioner in the house allegedly owned by him, he would be at liberty to file an application under Section 22(2) of the Act of 2007 within one month. Pursuant to the said liberty, respondent No.4 filed a complaint under Section 22(2) before the District Magistrate, Ambala, which culminated in the passing of the impugned eviction order dated 19.06.2018, which is now under challenge in the present proceedings.

4. Assailing the impugned order, learned counsel for the petitioner contends that while setting aside the previous orders passed by the Maintenance Tribunal and the Appellate Tribunal, the Co-ordinate Bench categorically observed that the petitioner, being a daughter-in-law, does not fall within the definition of “relative” as contemplated under Section 2(g) of the Act of 2007. However, the District Magistrate, while passing the impugned order, failed to consider these observations.

5. It is further argued that the property in question constitutes a “shared household”, wherein the petitioner resides along with her minor children. Her husband is employed abroad as an unskilled labourer. Therefore, the petitioner’s right to reside in the shared household stands protected under law. The District Magistrate, however, omitted to consider this material aspect also.

6. Learned counsel for the petitioner further submits that the ownership of the house itself is in dispute, as evident from various pending civil proceedings *inter se* between the petitioner, respondent No.4, and his brothers. Reliance is placed on the report of the Sub-Divisional Officer submitted before the District Magistrate, which indicates that the house is

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jointly owned by respondent No.4 and his two brothers, namely Joginder Singh and Chanan Singh. It is also contended that respondent No.4, being an ex-serviceman retired from the Indian Army/BSF, is receiving a pension exceeding ₹ 30,000/- per month, and hence, cannot be deemed dependent on anyone for maintenance.

7. *Per contra*, learned counsel for respondent No.4 submits that the present writ petition has been rendered infructuous as the petitioner has already shifted to her newly constructed residence. It is argued that respondent No.4 is the owner and in possession of the house in question, and that the petitioner has failed to produce any evidence to establish the same as a “shared household”. It is further submitted that since the property lies within the “Lal Dora” area, no revenue record exists, and possession itself is sufficient to establish ownership.

8. Having heard learned counsel for the parties and examined the record, this Court is of the considered view that the following issues emerge for adjudication in the present writ petition:

(i) Whether the District Magistrate has rightly examined the question of ownership of the house in question ?

(ii) Whether the house in question constitutes a “shared household” of the petitioner, and if so, whether she can be lawfully evicted therefrom ?

(iii) Whether the petitioner falls within the ambit of the term “relative” under Section 2(g) of the Act of 2007, and whether respondent No.4 is dependent upon her and possesses only



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the house in question for his residence ?

9. With regard to issue (i), the reports of the Sub-Divisional Officer assume significance as they are inconsistent and contradictory in nature. In his initial report dated 08.12.2017, the Sub-Divisional Officer verified the ownership of the house in question, however, in his subsequent report dated 31.05.2018, he voiced that the house in question, whereon initially the possession of Paramjit Singh, Ranjit Kaur (petitioner) and Parkash Singh (respondent No.4) was verified, is situated within the “Lal Dora” and hence the ownership thereof is not entered in the revenue record. It was also voiced that the house in question is surrounded by houses of respondent No.4’s brothers namely Joginder Singh and Chanan Singh.

10. The aforesaid contradictions coax this Court to observe that the aspect concerning ownership of the house in question requires fresh examination by the District Magistrate.

11. Before dealing with the issue (ii), it is deemed imperative to refer to certain significant judicial pronouncements having a bearing on the said issue. In ***“Smt. S. Vanitha Vs. The Deputy Commissioner, Bengaluru Urban District and Others”, 2021 AIR (Supreme Court) 177***, the Hon’ble Supreme Court, after examining the legislation intended to deal with salutary aspects, stressed upon the need for harmonious construction between two statutes, i.e. the Act of 2007 and the Protection of Women from Domestic Violence Act (PWDVA), so as to give effect to both the protections, i.e. the elderly right to maintenance and protection

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and woman's right of residence in domestic relationship. It was specifically held that whether the property is a "shared household" under the PWDVA, must be adjudicated by appropriate forum and cannot be defeated merely by invoking summary powers under the Act of 2007, without regard to such competing right. The learned Tribunal, under the Act of 2007, may have authority to order eviction as an incident of enforcement of right of senior citizen, but that power is not absolute and the learned Maintenance Tribunal needs to strike a balance with the competing claim, particularly, the right of woman to reside in a shared household. The rigours of the Act of 2007, cannot be used as a tool to override the protection under the DV Act. The relevant paragraphs are extracted hereinafter:-

"21. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest. The PWDV Act 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, is widely prevalent but has remained largely invisible in the public domain. The Statements of Objects and Reasons Indicates that while Section 498A of the Indian Penal Code created a penal offence out of a woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would "provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society". The ambit of the Bill has been explained thus:

"4. The Bill, inter alia, seeks to provide for the following:-

(i) It covers those women who are or have been in a relationship



with the abuser where both parties have lived together in a shared household and are related by consanguinity. marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression “domestic violence” to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe



shelter, etc.”

The above extract indicates that a significant object of the legislation is to provide for and recognize the rights of women to secure housing and to recognize the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act 2005, would defeat the object and purpose which the Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007.

22. This Court is cognizant that the Senior Citizens Act 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under Section 8. The jurisdiction of the Civil Courts has been explicitly barred under Section 27 of the Senior Citizens Act 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act 2005. The PWDV Act 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. in deference to the



dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act 2005. Section 26 of the PWDV Act empowers certain reliefs, including relief for a residence arder, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act 2005 and Senior Citizens Act 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a shared household under Section 17 of the PWDV Act 2005. In the event that the aggrieved woman obtains a relief from a Tribunal constituted under the Senior Citizens Act 2007, she shall duty-bound to inform the Magistrate under the PWDV Act 2005, as per Sub-section (3) of Section 26 of the PWDV Act 2005. This course of action would ensure that the common intent of the Senior Citizens Act 2007 and the PWDV Act 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization.

24. For the above reasons, we have come to the conclusion that the claim of the appellant that the premises constitute a shared household within the meaning of the PWDV Act 2005 would have to be determined by the appropriate forum. The claim cannot simply be obviated by evicting the appellant in exercise of the summary powers entrusted by the Senior Citizens Act 2007. The Second and Third Respondents are at liberty to make a subsequent application under Section 10 of the Senior Citizens

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Act 2007 for alteration of the maintenance allowance, before the appropriate forum.”

12. This Court has also examined the judgment and the ratio laid down by the Hon’ble Supreme Court in case titled **“S.R. Batra and another Vs. Taruna Batra (Smt.)”, (2007) 3 Supreme Court Cases 169**, and there is no wrangle with regard to same. In Paragraph 29 of the said judgment, it was specifically held that wife is only entitled to claim a right to residence in a shared household, and a shared household would only mean, the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is the member. The relevant is extracted hereunder:-

“29. As regards Section 17(1) of the Act, in our opinion the wife is only entitled to claim a right to residence in a shared household, and a shared household would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of Appellant 2, mother of Amit Batra. Hence it cannot be called a “shared household”. ”

13. Adverting to issue (ii), this Court, guided by the settled principles enunciated by the Hon’ble Supreme Court, notes that respondent No.4 sought eviction primarily on the grounds that the petitioner had refused to serve him food and had misbehaved with him, and that she was merely a licensee with no independent right of residence. In response, the petitioner claimed that she had been residing in the house since her marriage, along with her minor children, thereby rendering the

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property a shared household within the meaning of law.

14. This Court, having applied its judicial mind, is of the view that the District Magistrate was required to examine whether the house in question constitutes a shared household and, thereafter, while considering the competing rights of the petitioner/daughter-in-law and respondent No.4/father-in-law, to pass an appropriate order on the complaint filed under Section 22(2). However, no such exercise was undertaken. Consequently, this issue also warrants fresh examination by the District Magistrate.

15. With respect to issue (iii), the Co-ordinate Bench of this Court, in its order dated 11.10.2017 in CWP No.14659 of 2017, has already observed that the petitioner, being the daughter-in-law, does not fall within the definition of “relative” under Section 2(g) of the Act of 2007. Despite this clear finding, the District Magistrate failed to take it into account while directing eviction. Furthermore, the question as to whether respondent No.4 possesses any alternate accommodation, whether he is dependent upon others, or whether the petitioner has indeed shifted to another house also requires fresh factual determination.

16. In summa, this Court finds that the District Magistrate has not undertaken a proper examination of the issues germane to the matter, namely ownership of the house in question, the existence of a shared household, and the dependency of respondent No.4. Accordingly, the **impugned order dated 19.06.2018 is hereby set aside**, and the **matter is remanded** for a fresh adjudication in accordance with law.

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17. It is also pertinent to record here that the complaint/application filed by respondent No.4 under Section 22(2) is not maintainable before the District Magistrate, as such applications lie before the Maintenance Tribunal presided over by the Sub-Divisional Magistrate. The issue is no longer *res integra*, as it has been consistently held that applications seeking eviction orders under the Act of 2007 are required to be filed before the Maintenance Tribunal-cum-Sub-Divisional Magistrate and not before the Appellate Tribunal-cum-District Magistrate. A similar issue was considered by this Court in CWP-22501-2021, which was disposed of on 27.10.2025 with the following observations:

“5. This Court has heard the submissions made by the learned counsel for the parties concerned, and has also examined the issue. In Gurdial Singh (supra) case, the Coordinate Bench of this Court, has held that since the notification has been issued by the State of Punjab, where through, the powers have been bestowed with the Maintenance Tribunal, to adjudicate the application seeking eviction. The relevant extract from the said judgment is extracted hereinafter:-

“4. A perusal of the above instructions would show that in view of the judgment passed by the Hon'ble Supreme Court and by this Court, it has been decided by the State of Punjab that the Maintenance Tribunal can pass the eviction orders in view of the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act as there is no bar regarding the same but the District Magistrate cannot pass the eviction orders on account of the judgment dated 23.01.2020 passed by a Coordinate Bench in CWP-4744-2018 titled 'Simrat Randhawa Vs. State of Punjab'.

5. Learned counsel for the petitioner has submitted that in



the present case, he had filed an application before the Additional Deputy Commissioner, Patiala in pursuance of the District Magistrate having delegated its powers under Section 22 to the Additional Deputy Commissioner, Patiala and thus, he states that he may be permitted to withdraw the said application with liberty to file a fresh application before the Maintenance Tribunal in accordance with the latest instructions issued by the State of Punjab.

6. Learned counsel appearing for respondent No.3 and 4 has submitted that in case any such application is filed, respondents No.3 and 4 be permitted to raise all the pleas which are available to them, in accordance with law.

7. Keeping in view the above said facts and circumstances, the present writ petition is disposed of with the following directions:-

(i) It would be open to the petitioner to file an application for eviction in addition to other pleas that he might wish to raise before the Maintenance Tribunal.

(ii) The Maintenance Tribunal would decide the same after hearing all the parties concerned and after giving due opportunity to file reply to respondents No.3 and 4.

(iii) The Maintenance Tribunal would also take into consideration the instructions dated 18.12.2023 passed by the State of Punjab and decide the matter, in accordance with law.

(iv) The filing of the earlier petition by the Senior Citizen before the District Magistrate/ADA and the order passed thereon by the said authority, would not come in the way of the petitioner instituting the fresh proceedings before the Maintenance Tribunal in view of the instructions dated 18.12.2023 of Government of Punjab. The above said earlier petition would be deemed to have been withdrawn, with liberty to file a fresh petition, as detailed in the present order.

(v) In case any such petition is filed by the Senior Citizen,



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the Maintenance Tribunal is requested to decide the same, as expeditiously as possible.”

6. In view of the above propositions laid down by Coordinate Bench of this Court, the issue, as involved in the instant writ petition, is also squarely covered therein. Therefore, the impugned order is set aside, and the Deputy Commissioner concerned, is directed to transfer the original application to the learned Maintenance Tribunal concerned, and upon such transfer, the Sub Divisional Magistrate, concerned, after giving due opportunity of hearing to both the parties, shall decide the application afresh, in accordance with the provisions of the Act of 2007.”

18. Consequently, the District Magistrate, Ambala, is directed to, on receipt of a certified copy of this order, forthwith transmit the original complaint/application under Section 22(2) to the Sub-Divisional Magistrate-cum-Presiding Officer, Maintenance Tribunal concerned, who shall on receipt thereof, summon the parties concerned and make an endeavour to decide the same expeditiously, but only after due compliance with the provisions of the Act of 2007 and the apposite Rules, including the grant of a fair opportunity of hearing to the parties concerned and leading evidence, if any.

19. **Disposed of accordingly.**

November 10, 2025
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(KULDEEP TIWARI)
JUDGE

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