



CWP-22501-2021

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

(102)

CWP-22501-2021

Date of Decision : 27.10.2025

Ashok Kumar and another

...Petitioners

Versus

Appellate Tribunal-cum-District Magistrate, Sangrur
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARIPresent: Mr. Baljinder Singh, Advocate
for the petitioners.

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. P.K. Garg, Advocate
for respondent No.2.

KULDEEP TIWARI, J.(ORAL)

1. The petitioners, who are sons of the respondent No.2, fetching grievance from the order dated 14.09.2021 (Annexure P-2), passed by the learned Appellate Tribunal-cum-District Magistrate, Sangrur (respondent No.1), wherethrough, eviction order has been passed against them.

2. Learned counsel for the petitioners submits that in the instant case, the complaint under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as 'the Act of 2007'), was filed on 10.11.2020 (Annexure P-1), and the impugned order was passed on 14.09.2021 (Annexure P-2), by the learned Appellate Tribunal concerned, on the original site, in view of the Action Plan, adopted by the



State of Punjab, in the year 2014. He further submits that the said Action Plan was strike down by the Coordinate Bench of this Court, in CWP-4744-2018, titled '*Simrat Randhawa versus State of Punjab*' and thereafter, the State Government has come up with a notification empowering the Maintenance Tribunal, to deal with such an application on the original site, wherethrough, the eviction order has been sought, therefore, the impugned order was passed by the learned Appellate Tribunal concerned, without any jurisdiction.

3. He also places reliance upon the judgment passed by the Coordinate Bench of this Court, in CWP-27195-2023, titled '*Gurdial Singh versus State of Punjab and others*' decided on 18.12.2023, wherethrough, this issue had already been examined at length, and thereafter, it was held that the said application was not maintainable, and liberty was extended to the senior citizen, to file the application before the learned Maintenance Tribunal concerned.

4. On the other hand, learned counsel for respondent No.2, submits that the Act of 2007, empowers the learned Appellate Authority concerned, to decide the issue of eviction, and it was decided accordingly. However, he is unable to point out or raise any dispute, with regard to the decision rendered by the Coordinate Bench of this Court, in *Gurdial Singh (supra)* case.

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, wherethrough, 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 Co-ordinate 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, 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.
7. With the aforesaid observations, the instant writ petition is **disposed of**.

(KULDEEP TIWARI)
JUDGE

October 27, 2025
Manpreet

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