



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

LPA-5-2021 (O&M)

Date of decision: 05.08.2025

Harish Kumar

....Appellant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. C.P. Tiwana, Advocate,
for the appellant.

Mr. Pankaj Bali, Advocate,
for applicant/respondent No.3.

KULDEEP TIWARI, J. (Oral)

1. This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 27.11.2020, passed by the learned Single Judge, vide which, the writ petition preferred by petitioner-appellant, questioning the orders dated 15.11.2019, passed by the Deputy Commissioner, Ambala, and 07.12.2018, passed by the Sub-Divisional Officer, Ambala, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, the Act), has been dismissed.

2. Shorn of the unnecessary details, the relevant facts, which led the appellant-petitioner to the current stage, are that respondent No.3 had filed an application under Section 23(1) of the Act, before the learned Presiding Officer, Parent and Citizen Maintenance Tribunal, Ambala Cantt. (for short, 'the Tribunal'). Upon analysis of the matter and taking into consideration various factors, such as applicant-respondent



No.3, who was a senior citizen, happened to be a relative of the appellant-petitioner, besides being handicap, childless and homeless, the Tribunal allowed his application. Accordingly, the appellant-petitioner was directed to pay him Rs.8,000/- per month, from the date of filing the application (supra). It was further observed that in case, the appellant failed to comply with the order within 30 days, the applicant-respondent No.3 would be entitled to take half share in shop No.4095, Sarafa Bazar, Ambala Cantt.

3. Aggrieved by the said order, the appellant preferred the statutory appeal before learned Appellate Authority, but remained unsuccessful, which propelled him to file a writ petition seeking quashing of the orders (supra), on the ground of infraction of principles of natural justice.

4. The learned Single Judge, after considering the matter in issue, observed that it was the appellant himself, who had chosen not to appear before the Tribunal, Ambala Cantt., despite being aware of the pendency of the proceedings. It has also been observed that though, the appellant caused appearance before the Tribunal, Ambala Cantt., but, thereafter, he did not opt to appear before the Tribunal, Ambala City, when the proceedings were transferred thereto. Thus, there was no violation of the principles of natural justice. In such circumstances, he was not entitled to invoke the writ jurisdiction under Article 226 of the Constitution of India, seeking interference with the orders passed by the authorities (supra), and the writ petition has been dismissed.

5. This Court has heard the learned counsel for the parties and gone through record of the case.



6. *Ex facie*, the orders (supra) have been challenged primarily on the ground that the learned Presiding Officer, Ambala City, passed an *ex parte* order, as the appellant was never served with any notice regarding transfer of proceedings from the learned Tribunal, Ambala Cantt., to the learned Tribunal at Ambala City, and thus, he was oblivious of the proceedings being transferred to the learned Tribunal at Ambala City. In this backdrop, it is urged that apparently, there is a fraction of principles of natural justice, and as such, the order passed by the learned Tribunal is preposterous.

7. Before proceeding further, a reference to the order dated 02.05.2025, passed by a Coordinate Bench of this Court, would be necessary, and the same reads as under:-

“The principal contention of the counsel for the appellant is that when the proceedings under Section 5 (1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was transferred from Ambala Cantonment to Ambala City, he did not have notice of the same which according to him is corroborated from the notice dated 20.08.2018 at Annexure A-3, which is addressed to one Surjit Singh Walia and not to the appellant.

He further contends that on 12.10.2018, though notice was not served on hi, he was set ex-parte vide Annexure P-3 by the Presiding Officer Maintenance Tribunal-cum-Sub Divisional Officer (Civil), Ambala and ultimately, an adverse order dated 07.12.2018 was passed wrongly recording that the appellant did not appear even after sending the notice and without verifying whether such notice was actually addressed to him and whether it was actually served on him.

Though, the appellant challenged it before the Collector, Ambala by way of appeal, the said appeal was dismissed on 15.11.2019 without dealing with this aspect.



Even the learned Single Judge in the impugned order did not consider the matter in this perspective while dismissing the writ petition.

Having regard to these circumstances, the order dated 07.12.2018 of the Presiding Officer Maintenance Tribunal-cum-Sub Divisional Officer (Civil), Ambala as confirmed by the order dated 15.11.2019 by the Collector, Ambala and even the order dated 27.11.2020 in CWP-2967-220 is suspending until further orders.

Counsel for the respondents has contended that possession was already delivered to the 3rd respondent and if so, the 3rd respondent shall deliver back possession to the petitioner within a period of 3 days.

Reply be filed by the parties by the next date of hearing.

Adjourned to 29.08.2023.

The petitioner shall not alienate, encumber or change the physical features of the property after taking possession of the same from the 3rd respondent.”

8. In conspectus of the abovesaid order, it is clear that initially, respondent No.3 had preferred the application before the Tribunal at Ambala Cantt, which was subsequently transferred to the learned Tribunal at Ambala City. However, no such notice was ever served upon the appellant-petitioner to enable him to appear and contest the matter, which ultimately, resulted into an *ex parte* order. Further, the notice alleged to be served upon the appellant was, in fact, addressed to one Surjit Singh Walia, and this fact escaped attention of the Appellate Authority as also the learned Single Judge.

9. Upon being confronted with the abovesaid factual aspect of the matter, learned counsel for respondent No.3 is unable to refer to anything on record or advance any argument, which establishes that appellant-petitioner was, indeed, served as regards transfer of



proceedings from learned Tribunal, Ambala Cantt., to Ambala City. In such circumstances, this Court has no hesitation to hold that there is, indeed, infraction of the principles of natural justice. It is a settled proposition of law that *audi alteram partem* is an indispensable requirement in any decision-making process affecting the rights of a person. Thus, the lone factor of non-observance of the said principle of law is, by itself, sufficient to invalidate the impugned orders, and to remit the matter to the authorities concerned.

10. In the wake of the position sketched out above, this Court is not required to delve any further into the merits of the case. The impugned order and judgment, rendered by the learned Single Judge, as also the orders dated 07.12.2018 and 15.11.2019, passed by the authorities concerned, are set aside. Consequently, the matter is remitted to the Presiding Officer, Tribunal, Ambala City, to decide the application (supra), afresh, after affording due opportunity of hearing to all the stakeholders. For this purpose, the parties concerned, shall appear before the learned Tribunal, Ambala City, on 18.08.2025. Whereafter, the matter shall be decided, in accordance with law, within three months therefrom.

11. Accordingly, the appeal stands disposed of, in the above terms.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

05.08.2025
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No