



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

CWP-5889-2017 (O&M)

Date of decision: 18.08.2025

Kaushlya Devi

....Petitioner

Versus

Union Territory Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Mansur Ali, Advocate,
Mr. Vaibhav Garg, Advocate, and
Ms. Amarpreet Kooner, Advocate,
for the petitioner.

Mr. Parminder Singh Kanwar, Additional Standing Counsel,
Mr. Rakesh Sobti, Advocate,
for the respondent-U.T., Chandigarh.

Mr. Souabh, Advocate, for
Mr. Satish Kumar, Advocate,
for respondent No.3.

KULDEEP TIWARI, J. (Oral)

1. Through the instant writ petition, as cast under Article 226/227 of the Constitution of India, the order dated 15.12.2016 (Annexure P-7), passed by the learned District Commissioner-cum-District Magistrate, U.T. Chandigarh-respondent No.2, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (for short, 'the Act of 2007'), is put to challenge.

2. Briefly put, the facts of the case are that the applicant-petitioner (Smt. Kaushlya Devi), filed an application under Sections 21, 22 and 23 of the Act of 2007, seeking protection of life and property, i.e. House No.869, Tarkhana Wala, Mani Majra, U.T., Chandigarh, at the



hands of private respondents (her son and daughter-in-law). After analyzing the material on record, and the submissions advanced on behalf of both the parties, respondent No.2 concluded that the applicant could not prove on record any material, which even remotely suggests that respondent No.1 has grabbed the property in question fraudulently. Further, the applicant is getting family pension, and has sufficient accommodation to reside. Accordingly, the application was disposed of, however, with a direction to the authorities concerned to ensure protection of life of the applicant, besides directing the private respondents to take care of the applicant. Aggrieved, the applicant-petitioner has approached this Court, for quashing the impugned order.

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

4. Before embarking upon the merits of the case, it is necessary to refer to the order dated 11.08.2025, as drawn by this Court, and the same reads as under:-

“The perusal of the order dated 22.3.2017, reflects that a civil suit qua the property in question was filed by the petitioner, and is already pending. Learned counsel for the petitioner is unable to apprise this Court about the status of the civil suit, so preferred by the petitioner, and he made a request for adjournment to have apt instructions.

Learned counsel for the respondents-UT, Chandigarh submits that the sale deed in the instant case was executed much prior to the commencement of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, therefore, the application preferred by the petitioner is not maintainable.



Learned counsel for the petitioner seeks adjournment to address arguments on this issue, and also to inform about the fate of the civil suit.

Adjourned to 18.8.2025.

To be shown in the urgent list.

It is made clear that on the adjourned date, no adjournment shall be granted to either of the parties.”

5. In response, learned counsel for respondent No.3 informs the Court that the civil suit preferred by the petitioner has been dismissed. He has produced a copy of the judgment dated 10.07.2024, rendered by the learned Civil Judge (Junior Division), Chandigarh, which is taken on record as ‘Annexure A’.

6. Primarily, the applicant-petitioner has preferred the complaint as well as the civil suit on the ground that her son has misrepresented her and got the sale deed dated 03.10.2005, executed in his favour. However, she has miserably failed to prove her case before both the forums. No cogent proof, in this regard, has been placed on record even in the present proceedings.

7. Apart from the above, the argument raised by learned counsel for the respondents, that since the sale deed was executed much prior to the commencement of the Act of 2007, therefore, the application preferred by the applicant-petitioner was not maintainable, assumes significance. This issue has already been dealt with, by a Coordinate Bench of this Court in **CWP-8781-2016 (Ranjit Singh Vs. Deputy Commissioner, Mansa & Others)**, decided on 07.04.2025, and the relevant observations 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. Indisputably, in the instant case, the property in question



was transferred in the name of respondent No.3 on 03.10.2005, which was much prior to the enforcement of the Act of 2007. In this view of the matter, the application was, indeed, not maintainable. Upon being pointedly asked, learned counsel for the petitioner could not cite any decision to the contrary, to substantiate his arguments. However, at this stage, he submits that the petitioner has preferred an appeal against the impugned order, before the competent authority.

9. In view of the above, this Court is of the considered opinion that respondent No.2 has rightly disposed of the application, as preferred by the applicant, and as such, no interference is required with the impugned order by this Court. Therefore, the instant petition is **dismissed**.

10. Needless to assert that the Court concerned, shall decide the appeal of the petitioner, independently, on the basis of the merits of the matter, without getting prejudice from the order, passed by this Court.

(KULDEEP TIWARI)
JUDGE

18.08.2025
Ak Sharma

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