

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

102

CWP-22800-2021 (O&M)

Date of Decision : November 27, 2025

JITENDRA KUMARI

-PETITIONER

V/S

**ADDL. DEPUTY COMMISSIONER-CUM-APPELLANT
TRIBUNAL, ROOP NAGAR AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Arvind Kr. Sharma, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

Mr. Vivek K. Thakur, Advocate, with
Mr. Akshit Pathania, Advocate
for the respondents No.2, 3 and 5.

Mr. Arjun Dev, Advocate
for the respondent No.7.

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition assails the order dated 31.08.2021, whereby the petitioner's application, as filed under Sections 22 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act of 2007"), seeking eviction of the respondents No.2 to 7 from the house in question, has been dismissed by the Appellate Tribunal.

2. The principal contention advanced by learned counsel for the petitioner is that the impugned order has been passed by an authority devoid of statutory jurisdiction, and therefore, warrants interference on this ground alone. It is contended that post the drawing of the verdict

dated 23.01.2020 by a Co-ordinate Bench of this Court in ***CWP-4744-2018 titled "Simrat Randhawa Vs. State of Punjab"***, the eviction application (*supra*) ought to have been adjudicated by the Maintenance Tribunal-cum-Sub-Divisional Magistrate, and not by the Appellate Tribunal-cum-District Magistrate.

3. Learned State counsel does not dispute the submissions made hereinabove by learned counsel for the petitioner and fairly concedes that the eviction application (*supra*) ought to have been adjudicated by the Maintenance Tribunal-cum-Sub-Divisional Magistrate.

4. This Court has heard learned counsel for the parties and perused the record.

5. A perusal of the application (Annexure P-5) reveals that it is not maintainable before the Appellate Tribunal-cum-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, 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.”

6. In summa, the **impugned order is hereby set aside**, and the **matter is remanded** for afresh adjudication in accordance with law. The Appellate Tribunal-cum-District Magistrate, is directed to, on receipt of a certified copy of this order, forthwith transmit the original application (Annexure P-5) to the Maintenance Tribunal-cum-Sub-Divisional Magistrate. The parties are directed to cause appearance before the Sub-Divisional Magistrate on 15.12.2025, whereupon the latter shall make an endeavour to decide the matter preferably within six weeks, 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.

- 7. **Disposed of accordingly.**
- 8. Pending application(s) also stands disposed of accordingly.
- 9. Needless to say, nothing observed hereinabove shall have any bearing on the merits of the case.

November 27, 2025
devinder

(KULDEEP TIWARI)
JUDGE

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