



CWP-24458-2001 (O&M)

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

(206)

**CWP-24458-2001 (O&M)
Date of Decision : 29.08.2025**

Desh Raj

...Petitioner

Versus

Deputy Commissioner Kurukshetra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. B.S. Rana, Sr. Advocate with
Mr. Nayandeep Rana, Advocate and
Mr. Neeraj Rana, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Ms./Mrs. Satbir Kaur, respondent No.5, in person.

KULDEEP TIWARI, J.(ORAL)

1. Through the instant writ petition, cast under Articles 226/227 of the Constitution of India, a challenge is thrown to the order dated 02.11.2021 (Annexure P-5), passed by the learned Additional District Magistrate-cum-Appellate Authority, Kurukshetra (respondent No.1/A), wherethrough, an application on original site preferred by the petitioner, under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen's Act, 2007 (hereinafter to be referred as 'the Act of 2007'), has been dismissed, as well as the order dated 10.02.2021 (Annexure P-3), passed by the respondent No.1.

2. Learned senior counsel for the petitioner, at the outset, fairly submits that in view of the decision rendered by the Co-ordinate Bench of this Court upon CWP-26035-2023, the application (supra), ought to have been decided by the learned Maintenance Tribunal, at the first instance. However, it



was transferred to the Additional District Magistrate, Kurukshetra (respondent No.1), who is an Appellate Authority. Therefore, the impugned order dated 02.11.2021 (Annexure P-5), passed by the learned Additional District Magistrate, Kurukshetra, warrants interference by this Court, and is liable to be remanded to the learned Maintenance Tribunal, for afresh decision, on merits.

3. Today, the respondent No.5, has caused appearance in person, before this Court. During the proceedings, this Court, asked the respondent No.5, as to whether, she wishes to avail the facility of '*Legal Aid Counsel*', to which, she specifically denied. She has vociferously opposed the instant petition, and submits that in fact, this petition is a collusive petition, filed, at the behest of her husband (respondent No.3), and her mother-in-law (respondent No.4). She further submits that this has been done, in order to deprive her right, which accrues to her after marriage, and there are numerous litigations, which are pending. She also submits that on account of matrimonial discord, this method was adopted by her husband, to file this petition through her grand-father, and therefore, the instant petition completely lacks *bona fide*. She, in addition, submits that her husband has taken hefty loan on the land in question, which belongs to her, and furthermore, the said land, under different proceeding, has been decreed in favour of the bank. Finally, she submits that the petitioner, in order to achieve the illegal motive, goes to the extent of misinforming the age of the petitioner, as in the application filed under Section 23 of the Act of 2007, before the District Magistrate, Kurukshetra, the age of the petitioner has been specifically mentioned as 90 years, whereas, in the instant petition, the actual age of the petitioner, as per the Aadhaar Card, is 73 years, and the wrong age in the said



application, primarily, has been mentioned, in order to have sympathy of the authorities concerned.

4. Before this Court embark upon the submissions, as made by the parties concerned, it is imperative to have a glimpse upon the facts, *qua* which, there is no wrangle between the parties concerned.

5. As per the jamabandi for the year 2012-13, the petitioner is stated to be the owner of land measuring 144 kanals and 9 marla, in village Ismailpur, Sub Tehsil Ismailabad, District Kurukshetra. The petitioner has executed the transfer deed *qua* his land, bearing Vasika No.378 dated 05.06.2015, in favour of his two sons namely, Gulzar Singh and Mukhtiar Singh, and his grandson, i.e. respondent No.3, in equal shares. The 1/3rd share of the said land, i.e. 48 kanals of land, was transferred to respondent No.3, on his assurance that he will render services to the petitioner, in his old age and will maintain him. Thereafter, the respondent No.3, transferred the land of his share measuring 48 kanals, vide transfer deed No.221 dated 04.06.2018, in favour of respondent No.4 (mother), and respondent No.5 (wife), in equal share of 24 kanals, each.

6. The respondent No.3, in collusion with respondents No.4 and 5, took a hefty loan on the said land, and went to Abroad, and thereafter, he stopped paying the installments of the said loan, and started misbehaving with the petitioner, thereby, started ignoring to maintain the petitioner, in his old age. Aggrieved with this, the petitioner filed an application (Annexure P-1), under Section 23 of the Act of 2007, before the District Magistrate, Kurukshetra, on 28.02.2020, for cancellation of the transfer deeds dated 05.06.2015, and 04.06.2018, respectively, with further prayer for restoration of his land, since respondents No.3 to 5, has failed to maintain him. The



respondents did not cause appearance and were proceeded against *exparte*. Learned Presiding Officer, Maintenance Tribunal, Pehowa, vide order dated 17.09.2020 (Annexure P-2), while allowing the application, has passed an *exparte* order. He further ordered for cancellation of the transfer deeds, and consequent mutations of the land, in question.

7. The respondent No.5 (Satbir Kaur), preferred an appeal challenging the *exparte* order dated 17.09.2020 (Annexure P-2), before the learned District Magistrate, Kurukshetra-cum-Appellate Authority, which was accepted, vide order dated 10.02.2021 (Annexure P-3), with the observations that the learned Sub Divisional Magistrate, Pehowa, has gone beyond its jurisdiction in deciding the application (Annexure P-1), and the matter was remanded back to learned Sub Divisional Magistrate, Pehowa, with a direction to send a report along with his comments and as per the guidelines mentioned in the Act of 2007, to the District Magistrate, Kurukshetra-cum-Appellate Authority.

8. On 03.08.2021, learned Sub Divisional Officer, Pehowa, sent his report (Annexure P-4), along with his comments to learned Deputy Commissioner, Kurukshetra. The learned Appellate Authority, i.e. Additional District Magistrate, Kurukshetra, has dismissed the application preferred by the petitioner, under Section 23 of the Act of 2007, vide order dated 02.11.2021 (Annexure P-5), which is under challenge before this Court.

9. This Court has considered the submissions, as made by the parties concerned, and is of the considered opinion that, at this stage, this Court, does not require to go into the merits of the instant case, as the application under Section 23 of the Act of 2007, ought to have been decided by the learned Maintenance Tribunal concerned, at the first instance, which



was wrongly interfered by the learned Appellate Authority concerned.

10. This Court finds strength from the decision rendered by Coordinate Bench of this Court in CWP-26035-2023, decided on 29.11.2023. This Court has also decided the similar issue in CWP-11671-2021, decided on 28.08.2025, wherein, the matter was remanded back to the learned Maintenance Tribunal concerned, to decide the application under Section 22 of the Act of 2007.

11. This issue was also examined by the Hon'ble Supreme Court, in Civil Appeal No.10927 of 2024, decided on 02.01.2025, titled '*Urmila Dixit versus Sunil Sharan Dixit and others*'. The relevant paragraphs are extracted hereinafter :-

“24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the competency of the Tribunal to hand over possession of the property. In S. Vanitha (supra), this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.

25. Another observation of the High Court that must be clarified, is Section 23 being a standalone provision of the Act. In our considered view, the relief available to senior citizens under Section 23 is intrinsically linked with the statement of objects and reasons of the Act, that elderly citizens of our country. in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights



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promptly when they transfer a property subject to the condition of being maintained by the transferee.”

12. In view of the above, the order dated 02.11.2021 (Annexure P-5), passed by the learned Additional District Magistrate-cum-Appellate Authority, Kurukshetra, is hereby **set aside**, and consequent thereof, the earlier order dated 17.09.2020 (Annexure P-2), passed by the learned Presiding Officer, Maintenance Tribunal, Pehowa, wherethrough, the application was allowed, is also **set aside**. Accordingly, the matter is **remanded back** to the learned Presiding Officer, Maintenance Tribunal, Pehowa, to decide the application, afresh, after giving due and effective opportunity of hearing to the parties concerned.

13. Consequently, the instant writ petition is **disposed of**.

14. Pending applications, if any, stands disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

August 29, 2025
Manpreet

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