

**CWP-22768-2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(260)****CWP-22768-2024****Date of Decision : July 09, 2025****Nirmala Devi****.. Petitioner****Versus****Deputy Commissioner-cum- Chairman, Maintenance Appellate
Tribunal, Rewari and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI****Present: Mr. L.K. Gollen, Advocate, for the petitioner.****Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.****Mr. Rao Ajender Singh, Advocate, for respondents No. 3 and 4.****HARSIMRAN SINGH SETHI J. (ORAL)**

1. In the present writ petition, the challenge is to the orders dated 17.03.2020 (Annexure P-3) and 16.01.2024 (Annexure P-5) passed by the authorities exercising jurisdiction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as '2007 Act'), whereby the property which was transferred by respondent No.3-senior citizen in favour of her son i.e. the husband of the petitioner, who has unfortunately died and the property was inherited by the petitioner, has been directed to be reverted back to the senior citizen.

2. Learned counsel for the petitioner argues that without adjudicating as to whether, the requirement of Section 23 of the 2007 Act are fulfilled, the orders have been passed by the authorities envisaged under



2007 Act against the daughter-in-law for reversion of the property back to the respondent No.3-senior citizen after the death of the son of the respondent No.3-senior citizen i.e. husband of the petitioner herein.

3. Learned counsel for the petitioner submits that the petitioner was not the transferee of the property but has inherited the property after the death of the transferee hence, no claim can be raised against the daughter-in-law especially when the definition of the children as envisaged under 2007 Act against whom the claim can be raised, does not include the daughter-in-law.

4. Learned counsel for the petitioner further submits that the similar issue as raised in in the present petition has already been decided by this Court in ***CWP No.492 of 2022 titled as Charanjit Kaur vs. District Magistrate and Chairman of Appellate Tribunal, Yamuna Nagar and others, decided on 01.05.2025*** wherein, it has been held that after the death of the transferee, when the property has been transferred in favour of the daughter-in-law, the senior citizen cannot raise the claim against the said property under 2007 Act for retaining the property hence, the present writ petition may kindly be allowed and the orders passed by the authorities concerned in favour of the respondent No.3-senior citizen be set aside being contrary to the provisions of the 2007 Act as well as settled principle of law as settled in ***Charanjit Kaur's case (supra)***.

5. Learned counsel for the respondent No.3-senior citizen submits that though it is a conceded position that the property was transferred by the senior citizen in the name of her son i.e. husband of the petitioner and the son has already expired and the property has been inherited by the petitioner



but once the property initially belonged to the respondent No.3-senior citizen, after the death of her son who was the transferee, the property has to return back to the senior citizen and the reversion of the said property by the authorities exercising jurisdiction under 2007 Act vide impugned orders is perfectly valid and legal.

6. Learned counsel for the respondent No.3-senior citizen further submits that though, the definition of the children does not include daughter-in-law but the daughter-in-law should be made part of the said definition so as to get the property back after the death of the son who was the transferee in the present case qua the property which was initially owned by the respondent No.3-senior citizen.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. The claim has been raised by the respondent No.3-senior citizen under Section 23 of the 2007 Act. The said provision 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.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right,



or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.”

9. A bare perusal of the same would show that the claim can only be raised against the transferee in whose favour, the respondent No.3-senior citizen has transferred the property so as to allege the fraud to get the property back.

10. In the present case, the son was the transferee against whom no allegation of any mala fide or fraud has been alleged by the respondent No.3-senior citizen and no petition or claim was raised during his life time. Rather, the same are being alleged against the daughter-in-law who was not the transferee but has inherited the property after the death of the transferee i.e. son of the senior citizen/husband of the petitioner herein.

11. Once, no allegation of fraud has been made against the transferee, no allegations can be raised against the person, who has inherited the property after the death of the transferee i.e. the present petitioner.

12. Further, the name of the daughter-in-law does not find mentioned in the definition of the “children” as envisaged under 2007 Act which makes it clear that there was a conscious decision by the legislation not to include the daughter-in-law in the proceedings to be initiated under 2007 Act.

13. The argument of the learned counsel for the petitioner that the daughter-in-law should be presumed to be part of the definition of “children” cannot be accepted as this Court has no jurisdiction to add any

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relationship into the definition already notified by the legislation under 2007 Act.

14. Further, learned counsel for the respondent No.3-senior citizen has not been able to rebut the fact that the question of law raised in the present petition has already been decided while deciding the ***Charanjit Kaur's case (supra)***.

15. Keeping in view the totality of the circumstances, the orders passed by the authorities against the petitioner dated 17.03.2020 (Annexure P-3) and 16.01.2024 (Annexure P-5) are contrary to the provisions of the 2007 Act as well as the settled principle of law in ***Charanjit Kaur's case (supra)*** and cannot be sustained and are accordingly set aside.

16. However, the respondent No.3-senior citizen is given liberty that in case she intends to claim any inheritance in the property after the death of her son, she will be free to approach the Civil Court to raise the same.

17. The present writ petition is allowed in above terms.

July 09, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No