

2025:PHHC:161632



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

CWP-24189-2022 (O&M)

Date of decision: 19.11.2025

Jaskaran Singh and another

....Petitioners

Versus

Additional District Magistrate cum District Magistrate, Amritsar and
others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Fateh Singh Dhillon, Advocate,
for the petitioners.

Mr. Kushagra Mahajan, Advocate,
for respondent No.3.

KULDEEP TIWARI, J. (Oral)

1) The petitioners, through the instant writ petition, as cast under Articles 226/227 of the Constitution of India, have assailed the order dated 23.11.2020 (Annexure P-3), passed by the learned Maintenance Tribunal-respondent No.2, vide which, an application preferred by respondent No.3-senior citizen, under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 ('the Act of 2007'), was allowed, thereby cancelling the transfer deed dated 09.08.2018, which was executed in favour of the petitioners. Further, the order dated 24.11.2021 (Annexure P-5) is also challenged, wherethrough, the appeal preferred by the petitioners against the order (supra), has been dismissed.

2) Learned counsel for the petitioners, while referring to the contents of the application (supra), submits that even if the same are

2025:PHHC:161632



taken to be a gospel truth, still no case was made out for the authorities to invoke the mischief of Section 23 of the Act of 2007. Further, he submits that, though it is categorically recited in the transfer deed that in case, the grandchildren of senior citizen, i.e. grandson and granddaughter, would not look after him, he would have a right to seek cancellation thereof, but the application (supra), is not embodied with any such allegation. Rather, the senior citizen alleged that on the pretext of mortgaging the land, the deed in question was got executed. In such circumstances, the Maintenance Tribunal did not have any jurisdiction to adjudicate upon the matter. So much so, he asserts that even the learned Appellate Authority failed to return any finding to justify the order of the learned Maintenance Tribunal, while dismissing the appeal.

3) Learned counsel for the senior citizen, though, joins issue on merits, but also fairly concedes that the application (supra), does not contain any ingredient, thereby, extending any occasion to the learned Maintenance Tribunal to invoke its jurisdiction with the aid of Section 23 of the Act of 2007.

4) This Court has heard the submissions advanced on behalf of the contesting parties, and perused the record.

5) Before proceeding with the matter to gauge the legality of the impugned orders, it would be expedient to refer to Section 23 of the Act of 2007, around which, the entire controversy revolves, and the same reads, 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

2025:PHHC:161632



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.”

6) The Act of 2007 was enacted to uphold the traditional norms of Indian Society emphasizing the duty of children and relatives to provide for senior citizens. Accordingly, its provisions must be interpreted to achieve the legislative intent, while ensuring that the Act is not misused for the resolution of ordinary civil or property disputes within families.

7) A perusal of Section 23 reveals that where a senior citizen has, after commencement of the Act, transferred his property by way of gift or otherwise, subject to the condition that the transferee shall provide for his basic amenities and physical needs, and such transferee fails or refuses to do so, the Maintenance Tribunal is empowered to declare such transfer to have been made by way of fraud, coercion, or undue influence.

2025:PHHC:161632



8) At this juncture, it is imperative to also have a reference to the contents of the application (supra), and the same are extracted hereunder:-

“It is requested that my name is Puran Singh son of Roor Singh resident of Ramdas (Fatehgarh Churian Road), Tehsil Ajnala, Distt. Amritsar. I request before you that I am an old aged person and my daughter in law Kulwant Kaur in connivance with Surinderpal Kalia (Vasika) and M.C. upon the pretext of mortgaging my land had fraudulently transferred my land i.e. 26 Kanals 9 Marlas by way of registry. I came to know this from the Patwari that my land has been registered in the name of my granddaughter Malkit Kaur and my grandson Jaskaran Singh upon which I had told him that I had only mortgaged my land. My daughter in law and my granddaughter in connivance with Vasika and the witnesses had obtained registry from me. I am in old age and they have played fraud with me. I want to cancel the registry.

It is therefore, requested that the registry which has been obtained fraudulently from me should be cancelled. I had also stopped the mutation.”

9) A perusal of the application reflects that there is no recital that grandchildren of respondent No.3, are not maintaining him, in terms of the transfer deed, rather, his entire case is predicated upon a plea of fraud. However, the learned Maintenance Tribunal, only on the basis of failure of the transferees (grandchildren) to provide basic amenities to the transferor (senior citizen), cancelled the transfer deed. Apparently, the Maintenance Tribunal failed to return any finding upon the allegations leveled in the application (supra). Apart from that, even the senior citizen

2025:PHHC:161632



failed to prove that the grandchildren are not maintaining him. In such circumstances, the learned Maintenance Tribunal had no occasion to invoke mischief of Section 23 of the Act of 2007.

10) In conspectus of the position, as sketched out above, this Court has no reason to concur with the view adopted by the learned Tribunals. Accordingly, the impugned orders dated 23.11.2020 (Annexure P-3), and 24.11.2021 (Annexure P-5), are set aside, and the instant writ petition stands **allowed**.

11) However, in the event, respondent No.3 is under the impression that transfer in question is the outcome of fraud, he shall be at liberty to avail such other remedies, as shall be admissible in law.

(KULDEEP TIWARI)
JUDGE

19.11.2025
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No