



**103+202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-20731-CWP-2024 in/and
CWP No.23296 of 2024
Date of Decision : 15-01-2025**

JOGA SINGH

.....Petitioner

VERSUS

DALJINDER SINGH AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Zorawar Singh Chauhan, Advocate
for the respondent No.1.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order of the Commissioner, Jalandhar Division dated 28.08.2024 (Annexure P-4) by which, the application filed by the petitioner under the Maintenance of Welfare of Parents and Senior Citizen Act, 2007 (for short 2007 Act) has been transferred from Phillaur to Kapurthala.
2. The prayer raised in the present petition is that a similar request was made by the application filed by respondent No.1 which was declined by the District Magistrate, Jalandhar on 13.02.2024 as Annexure P-3 but again the same request was made before the Commissioner, Jalandhar Division by the impugned order dated 28.08.2024 same has been allowed so as to transfer the application of the petitioner from Phillaur to Kapurthala.
3. As per the petition, no appeal could have been made qua the order dated 13.02.2024 hence, allowing of the request is liable to be set aside. Further, the challenge to the impugned order is on the ground that

once, the case relates to District Jalandhar, the application filed by the petitioner could not have been transferred to Kapurthala under any circumstances.

4. Mr. Zorawar Singh Chauhan, Advocate appears on behalf of respondent No.1 by filing his memo of appearance and submits that there were certain apprehensions qua the Sub Divisional Magistrate cum Tribunal, Phillaur hence, the request of the son of the petitioner i.e. respondent No.1 to transfer the application filed by the father under 2007 has been transferred to Kapurthala.

5. Learned counsel for the respondent No.1 submits that the impugned order has been passed keeping in view the appeal preferred against the order of the District Magistrate, Jalandhar dated 13.02.2024 and the Commissioner Jalandhar Division, Jalandhar was very much within jurisdiction to pass an order.

6. I have gone through the pleadings and I have heard learned counsel appearing on behalf of the respondent No.1.

7. The jurisdiction which has been given to exercise powers under 2007 Act is to the District Magistrate of the District concerned.

8. The application can only be entertained by the officers of the District where the property is situated. Concededly, the property is situated within the District Jalandhar hence, the Commissioner, Jalandhar Division without even noticing the actual facts, transferred the application filed by the petitioner to Kapurthala, which is a separate District and that too without giving any reason. Merely that Commissioner Jalandhar Division, Jalandhar have the jurisdiction of the District Kapurthala, will not give him an

authority to transfer the application filed by the petitioner outside Jalandhar.

The 2007 Act under which the application was filed does not give power to another District to deal with the property situated in the particular District.

9. Even otherwise, the reason which has been given by the District Magistrate, Jalandhar while passing the impugned order dated 13.02.2024, have not been dealt with by the Commissioner, Jalandhar Division which itself makes the order liable to be set aside.

10. Further, the power to deal with the case has to be derived from 2007 Act. There is no appeal provided under 2007 Act against an order passed by the District Magistrate hence, without appreciating the said fact, the order which has been passed by the Commissioner, Jalandhar Division, Jalandhar cannot be sustained even otherwise.

11. Keeping in view the above, the order dated 28.08.2024 is set aside and the Tribunal which was hearing the application filed by the petitioner in District Jalandhar, will continue to hear the same and decide in accordance with the law.

12. Present petition is allowed in above terms.

13. Pending application, if any, also stands disposed of.

15-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO