

**CWP-21969-2023 (O&M)****1**

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

201**CWP-21969-2023 (O&M)****Date of Decision : August 07, 2025****ANIL BHABORIA****-PETITIONER****V/S****BHAG SINGH AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Tara Dutt, Advocate and
Mr. Raghav Chadha, Advocate
for the petitioner.

Mr. Keshav Pratap Singh, Advocate with
Mr. Namish Sodhi, Advocate and
Mr. Ekteshwar Sidhu, Advocate
for the respondent No.1.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, who is the son of respondent No.1, has instituted the present writ petition assailing the order dated 03.12.2019 passed by the Maintenance Tribunal concerned, whereby Relinquishment Deed No. 519 dated 19.06.2013, executed by the respondent No.1 in favour of the petitioner, was cancelled. The petitioner has further challenged the validity of the order dated 06.07.2023 passed by the Deputy Commissioner concerned, whereby the appeal preferred by the petitioner against the order dated 03.12.2019 was dismissed.

2. Before this Court proceeds to gauge the legality of the impugned orders, it is deemed imperative to briefly recapitulate the facts



essential for the adjudication of the present writ petition.

3. The respondent No.1 filed a petition under Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007') seeking cancellation of Tabdeel Malkiatnama dated 19.06.2013, wherethrough he transferred land measuring 98 Kanals 19 Marlas 6 Sarsahi in favour of the petitioner. The grounds canvassed in this petition under Section 23 were that the transfer deed was got executed by the petitioner on the assurance that he will serve the respondent No.1 and his wife (i.e. petitioner's parents). However, after some time of the execution of the transfer deed, the petitioner started misbehaving with the respondent No.1 and his wife, and also started compelling them either to transfer the residential house in his name, registered owner whereof is the wife of the respondent no.1, or to sell the same and give him ₹ 1,00,00,000/-. On denial of the respondent No.1 to accede to this demand, the petitioner became more annoyed and aggressive, and he started abusing the respondent No.1 and his wife and also threatened to throw them out of the said house. A police complaint was also made by the respondent No.1, and even efforts were made to pacify the matter with the intervention of Panchayat, but to no avail.

4. The petition (supra) was contested by the petitioner by filing response that, in fact, the petitioner has been gainfully employed in Germany since 1999, and has been regularly sending huge sums to the respondent No.1 from abroad. Moreover, his wife has been providing all basic amenities as well as physical needs to the respondent No.1 and his

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wife Urmila Kumari. In April, 2018, the petitioner's wife transferred a sum of ₹ 1,25,000/- from her account to the account of the respondent No.1, and the petitioner also sent him a sum of ₹ 38,000/- through Moneygram. In the written statement, the petitioner brought on record detailed facts qua the property transaction between him and his father (respondent No.1). It was highlighted that the petitioner had executed a General Power of Attorney in favour of his father/respondent No.1 on 23.05.2008 with regard to 23 Kanals of land, and this G.P.A. was cancelled on 25.09.2019. It was further averred that the land transferred in his favour, vide the deed in question, is being cultivated by him through his father (respondent No.1) only and the entire produce of this transferred land is at the disposal of his father. It was further averred that, in fact, petitioner's mother/wife of the respondent No.1 was owner of land measuring 28 Kanals 09 Marlas, which she transferred in favour of her husband/respondent No.1 by way of Tabdeel Malkiatnama dated 16.10.2013. Apart from this land, the respondent No.1 is owner of land measuring more than 5 Killas situated in Village Palakwah, Tehsil Haroli, District Una, which he gets cultivated by giving it on lease. Moreover, the respondent No.1 is an ex-serviceman, and remained employed even with Merchant Navy, and is getting good pension. Therefore, he is not dependent upon financial assistance of the petitioner. Finally, it was averred that the petition (supra) had been filed by the respondent No.1 at the behest of his another son/petitioner's younger brother, as he wanted to settle the property dispute.



5. Considering the contentions of both the parties, the Maintenance Tribunal concerned, by drawing the impugned order dated 03.12.2019, allowed the petition (supra) and cancelled the Transfer Deed No.519 dated 19.06.2013. Fetching grievance from this cancellation order, the petitioner filed an appeal before the Deputy Commissioner concerned, however, it was also dismissed vide the impugned order dated 06.07.2023.

6. Learned senior counsel for the petitioner, while inviting the attention of this Court to the transfer deed in question, submits that the said deed contains no recital indicating that the transfer was made out of love and affection, nor that it was subject to any condition requiring the petitioner to maintain or look after the respondent No.1, a senior citizen. It is further submitted that no effort was made by the respondent No.1 to establish before the Maintenance Tribunal that the transfer of the land in question was conditional upon the petitioner providing basic amenities and physical needs, which is a sine qua non for applicability of Section 23(1) of the Act of 2007. To lend vigour to his submissions, he places reliance upon the verdicts rendered in the cases of **“Sudesh Chhikara Vs. Ramti Devi & Anr.”**, Civil Appeal No.174 of 2021, Decided on: **06.12.2022** by the Hon’ble Supreme Court; **“Tilak Raj Vs. State of U.T. Chandigarh & Ors.”**, CWP-414-2025, Decided on: **13.01.2025** by a Co-ordinate Bench of this Court; and **“Tilak Raj Vs. State of U.T. Chandigarh & Ors.”**, LPA No.1012 of 2025, Decided on: **09.05.2025** by a Division Bench of this Court.



7. Continuing his submissions, learned senior counsel for the petitioner submits that the impugned order drawn by the Maintenance Tribunal is a totally non speaking order, inasmuch as except extracting the pleadings of the parties, not even a single reason has been assigned to reach the conclusion arrived for cancelling the transfer deed in question. Therefore, on account of its being a non speaking order, it ought to have been set aside by the appellate authority in exercise of the powers conferred by Section 16 of the Act of 2007. However, even the appellate authority has also not appreciated the above facts and dismissed the petitioner's appeal. Consequently, both the impugned orders deserve to be set aside.

8. Per contra, learned counsel for the respondent No.1 vehemently opposes the submissions advanced by learned senior counsel for the petitioner, contending that there is no requirement under Section 23 of the Act of 2007, for the transfer deed to contain an express recital of conditions relating to maintenance or care. It is submitted that, even from the surrounding circumstances, it is evident that the transfer in question was made with the expectation that the petitioner would provide basic amenities and physical needs to his father/respondent No.1.

9. Learned counsel for the respondent no.1 further submits that, it has been specifically pleaded in the petition under Section 23 that subsequent to the execution of the transfer deed, the petitioner and his wife began to ill-treat both the respondent No.1 and his wife (the petitioner's parents). A Panchayat was also convened to resolve the issue,



however, the efforts were in vain. He also draws the attention of this Court to the petition filed under Section 23, wherein it has been categorically averred that the petitioner refused to maintain the respondent No.1 after execution of the deed, to contend that this is sufficient to attract the applicability of Section 23(1) of the Act. Therefore, the authorities below have rightly exercised their jurisdiction in cancelling the transfer deed in question.

10. This Court has heard the submissions advanced by learned counsels for the parties and has also perused the record.

11. At the time of issuance of notice of motion on 03.10.2023, the petitioner made a specific offer that he is ready to pay an amount of ₹ 50,000/- per month to his parents for their maintenance, besides paying an amount of rs 30,000/- as litigation expenses. Consequently, vide order dated 03.10.2023, a direction was issued to the petitioner to bring, on the next date of hearing, a demand draft of an amount of ₹ 1,30,000/- (₹ 1,00,000/- being maintenance for the months of October and November, 2023, and ₹ 30,000/- as litigant expenses) in favour of respondent No.1.

12. On the next date of hearing, i.e. 04.12.2023, the above direction was complied with by the petitioner through his paying the amount (supra) by way of demand draft. However, during the course of hearing on 03.12.2024, learned counsel for the respondent No.1 submitted that the respondent No.1 is not interested to consume the compensation amount to be paid by the petitioner, as he always shows disrespect to him. Resultantly, this Court modified the order dated 03.10.2023 to the extent

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that the compensation amount of ₹ 50,000/- per month be deposited by the petitioner with the PGIMER, Chandigarh, for utilization of poor patients (for purchase of medicines etc.). The relevant portion of the order dated 03.12.2024 is extracted hereunder:-

“On October 03, 2023, in order to show bonafide, it was, inter alia, submitted on behalf of the petitioner that he is ready to pay an amount of Rs.50,000/- per month to respondent No.1 and his mother as maintenance alongwith litigation expenses to the tune of Rs.30,000/-.

Today, learned counsel for respondent No.1, on instructions, submits that since petitioner is always showing disrespect to him, therefore, he is not interested to consume the compensation amount to be paid by the petitioner and as such, the same be deposited for utilization of poor patients (for purchase of medicines etc.) with the PGIMER, Chandigarh.

In view of the above, order dated 03.10.2023 is modified to the extent that amount of compensation @ Rs.50,000/- per month be deposited in A/C No. 30078805796 IFSC: SBIN0001524 (State Bank of India, PGIMER, Chandigarh Branch) for utilization of poor patients and pending arrears be also cleared before the date fixed.”

13. What emerges from a studied survey of the record is that the respondent No.1 is not financially dependent upon the petitioner, inasmuch as, besides the land transferred vide the transfer deed in question, he continues to possess sufficient immovable property. Moreover, even the land that was transferred was being cultivated by the petitioner only through the respondent No.1, and the entire agricultural income derived therefrom was retained by him. Not only this, the respondent No.1 is in receipt of a regular pension, being an ex-serviceman



who had served initially in the Indian Navy and subsequently in the Merchant Navy.

14. Significantly, the transfer deed in question contains no recital to the effect that the transfer was made either out of love and affection, or subject to any condition requiring the petitioner to provide basic amenities or physical needs to the respondent No.1. Although an attempt has been made to fill this lacuna through pleadings in the petition filed under Section 23 of the Act of 2007, no substantive or corroborative evidence has been placed on record to support such a claim.

15. Once it is established that the respondent No.1 himself possesses sufficient means and property to sustain himself, the presumption that the transfer was made with the expectation of being maintained by the petitioner loses its foundation. It is also relevant to note that the petitioner has been residing in Germany since the year 1999, hence, the allegation of ill-treatment by him does not prima facie arise. No cogent or admissible evidence was placed before the Maintenance Tribunal to substantiate the claim of ill-treatment. Instead, a vague and unsubstantiated plea was taken that the petitioner began to mistreat the respondent No.1 and refused to provide him basic amenities of life after the latter declined to transfer the residential house in the petitioner's name. Not a single specific instance was either pleaded or proved to demonstrate which essential amenities or needs of the respondent No.1 were denied by the petitioner.

16. Furthermore, although the transfer deed in question is silent



as to any express condition obligating the petitioner to maintain the respondent No.1 by providing basic amenities and physical needs, it was still open to the respondent No.1 to plead and prove the existence of such a condition before the Maintenance Tribunal. However, the record does not reveal the production of any credible material to that effect.

17. In **Sudesh Chhikara's case (supra)**, the Hon'ble Supreme Court has held that, to attract the provisions of Section 23 of the Act of 2007, the condition of providing basic amenities and basic physical needs to transferor- senior citizen is sine qua non for its applicability. The relevant paragraphs are extracted hereunder:-

"13. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal.

14. Careful perusal of the petition under Section 23 filed by respondent no.1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of respondent no.1) would provide the basic amenities and basic physical needs to respondent no.1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the impugned judgment of the Tribunal, immediately after a reply was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic



amenities and basic physical needs to the transferor – senior citizen is sine qua non for applicability of sub-section (1) of Section 23. In the present case, as stated earlier, it is not even pleaded by respondent no.1 that the release deed was executed subject to such a condition.”

18. Similar observations were made by a Co-ordinate Bench of this Court, presided over by Hon’ble Mr. Justice Harsimran Singh Sethi, in **Tilak Raj’s case (supra)**, wherein, after considering the ratio laid down in Sudesh Chhikara’s case (supra), it was held that the condition requiring the transferee to maintain the senior citizen by providing basic amenities and physical needs must not only be expressly stipulated in the transfer deed, but must also be specifically pleaded before the Tribunal in order to establish a breach thereof. It is only upon fulfillment of these conditions that the relief under Section 23 of the Act can be granted. The relevant observations of the Co-ordinate Bench are extracted hereinbelow:

“12. A bare perusal of the above paragraphs of the judgment in Sudesh Chhikara (supra) makes it clear that not only the condition that the senior citizen will be maintained by the transferee qua his basic amenities and basic physical needs must be there in the document concerned but, the said part needs to be pleaded before the Tribunal also so as to prove the violation of the said condition and it is only under that circumstances, the relief can be granted. In the absence of the condition that the transferee is liable to maintain the senior citizen in the deed sought to be recalled, the requirement of Section 23 of the 2007 Act are not fulfilled and the interpretation being given by the petitioner to the paragraphs 13 and 14 of the judgment cannot be accepted.

13. Even otherwise, on being asked to read from the pleadings as to what basic amenities and the basic physical needs were



demanded by the petitioner before the Tribunal and how they were proved, learned counsel for the petitioner has not been able to show that any such factual averment was made or any evidence was brought on record with regard to any basic amenities or the physical needs of the petitioner, not being fulfilled by the respondent. Hence, even if the interpretation being given by the petitioner is accepted for the sake of argument, then also, the requirements of the judgment in Sudesh Chhikara (supra) are not fulfilled in the facts and circumstances of the present case.”

19. The legality of the hereinabove expressed observations was tested by the aggrieved by filing LPA No.1012 of 2025, however, the same were affirmed by the LPA Bench of this Court by drawing the order dated 09.05.2025. The relevant paragraphs of this order are extracted hereunder:-

“10. A perusal of the said judgment indicates that transfer must be made subject to the condition that transferee shall provide basic amenities and basic physical needs to the transferor and only then if the transferee refuses or fails to provide such amenities or physical needs to the transferor Section 23 (1) of the 2007 Act can be brought into motion. Only if both the conditions are satisfied by a legal fiction, then transfer shall be deemed to have been made by way of fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of transferor and the Maintenance Tribunal would have the jurisdiction to declare the transfer void.

11. It was further observed in Sudesh Chhikara's case (supra) that when a petition under Section 23 of the 2007 Act does not reveal that the deed was executed subject to the obligation of maintenance stipulated under Section 23 of the 2007 Act and no such finding is recorded by the Maintenance Tribunal or no oral evidence is adduced by the parties, then the order of the Tribunal could not be held to be maintainable.”



20. Reiteratedly, in the instant case, the transfer deed in question contains no recital of any condition obligating the petitioner to provide basic amenities or physical needs to Respondent No.1, a senior citizen. Moreover, the respondent No.1 failed to adduce any evidence before the Maintenance Tribunal to establish that the transfer was made subject to such a condition. Consequently, the impugned orders cannot withstand judicial scrutiny and do not satisfy the test of legality.

21. Another issue that arises for consideration is “*whether the impugned order passed by the Maintenance Tribunal qualifies as a speaking order*”. A perusal of the said order indicates that it merely embodies the pleadings of the parties, and in the operative portion thereof, the transfer deed has been cancelled without the assignment of any reasons or discussion of relevant findings.

22. It is a trite law that, reasons are nexus between the conclusion reached and the facts in question. The requirement of recording reasons is not a mere formality but a fundamental component of the principles of natural justice. It ensures transparency, accountability, and enables the affected party to understand the basis of the decision, while also facilitating effective judicial review. An order that merely reproduces the contentions of the parties without analyzing the material on record or assigning cogent reasons for the conclusions arrived at fails to meet the standards of a reasoned or speaking order. Such an order, being devoid of rationale, is liable to be set aside.

23. Consequently, this Court has no hesitation in holding that the

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impugned order drawn by the Maintenance Tribunal is a totally non speaking order and deserves to be set aside. Insofar as the impugned order drawn by the appellate authority is concerned, this issue has not been considered in its right perspective therein also.

24. In summa, the **present writ petition is allowed** and **both the impugned orders are hereby set aside.**

25. In the event the respondent No.1, at any future point in time, wishes to accept the offer of maintenance made by the petitioner before this Court, he shall be at liberty to move an appropriate application for revival of the present writ petition, in order to give effect to the said offer.

26. Pending application stands disposed of accordingly.

August 07, 2025
devinder

(KULDEEP TIWARI)
JUDGE

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