



CWP-416-2023

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

(201)

CWP-416-2023

Date of Decision : 11.11.2025

Charanjit Kaur

...Petitioner

Versus

The Presiding Officer, Appellate Tribunal
cum Deputy Commissioner, Ferozepur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Harjinder Singh Dhillon, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. Raj Kumar Kakkar, Advocate
for respondents No.3 (i) and 4.

Respondents No.3 (ii), 3 (iii), (a), (b), (c) and (d)
proceeded against *ex parte* vide order dated 18.08.2025.

KULDEEP TIWARI, J.(ORAL)

1. The petitioner, who is daughter-in-law of respondent No.3 (since deceased), has approached this Court, by filing the instant writ petition, cast under Article 226/227 of the Constitution of India, to throw a challenge to the order dated 25.05.2022 (Annexure P-20), passed by the learned Appellate Tribunal-cum-Deputy Commissioner, Ferozepur (respondent No.1), as well as order dated 24.01.2019 (Annexure P-18), passed by the learned Tribunal-cum-Sub Divisional Magistrate, Zira, District Ferozepur, Punjab (respondent No.2), upon an application filed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter to be referred as 'the Act of 2007'), wherethrough, the

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transfer deed No.3828 dated 24.12.2012 (Annexure P-4), was ordered to be cancelled. The statutory appeal preferred by the petitioner before the learned Appellate Authority, was also dismissed vide order dated 25.05.2022 (Annexure P-20).

2. To begin with his lengthy arguments, learned counsel for the petitioner, while drawing the attention of this Court towards the contents of the transfer deed, submits that there is no recital in the said transfer deed, that such transfer was subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor. Therefore, the same cannot be cancelled, by invoking the provisions of Section 23 of the Act of 2007. Further, by narrating the sequence of events, he submits that the instant writ petition, has been filed at the behest of her husband (respondent No.4), in connivance with respondent No.3 (father-in-law, since deceased), in order to get rid of her. He submits that respondents No.3 and 4, wanted a son, to be born from the wedlock of the petitioner and respondent No.4 (husband), as a male heir, hence, they started pressurising the petitioner to perform a second marriage. Since, the petitioner was not agreeing for second marriage of respondent No.4, the atmosphere in the family remained tensed. In order to seek the consent of the petitioner, for allowing her husband to perform the second marriage, various proposals through the family *Panchayat* were given. Her husband also got transferred 07 acres of land, situated at village Markhai, Tehsil Zira, District Ferozepur, in the name of the petitioner, vide transfer deed No.377, dated 15.07.2017, and the said transfer formed the part of the land, which was earlier transferred by the respondent No.3, in the year 2012, in favour of his son, and in this transfer, the respondent No.3, stood himself as the attesting witness. Earlier, the respondent No.3, tried to eliminate the



petitioner, under the garb of cleaning his licensed rifle, he shot at the petitioner, causing gun-shot injuries upon her legs. However, considering the relationship between them, on the very next day, the petitioner had entered into a compromise dated 07.09.2017, and respondent No.3, has regretted for the mistake and promised not to repeat the same in future. He submits that all these aspects have not been taken into consideration by the learned Tribunal concerned, at the time of passing the impugned order.

3. The learned Maintenance Tribunal concerned, after examining the contents of the transfer deed, allowed the application, and cancelled the transfer deed, vide order dated 24.01.2019 (Annexure P-18). The statutory appeal as preferred by the petitioner under the Act of 2007, was dismissed by the learned Appellate Authority concerned, vide order dated 25.05.2022 (Annexure P-20). Hence, the instant writ petition, under Article 226/227 of the Constitution of India, has been preferred by the petitioner.

4. On the other hand, learned counsel for the respondents No.3 (i) and 4, has put a fierce defence, and has submitted that the behaviour of the petitioner was very rude towards the respondent No.3. Since the petitioner and her husband had refused to maintain the respondent No.3/senior citizen, therefore, the impugned order was legally passed, by invoking the provisions of Section 23 of the Act of 2007.

5. This Court has heard the rival submissions made by the learned counsel for the parties concerned, at length, and has also gone through the paper book and the available record.

6. Before this Court, to examine the validity of the impugned order, it is imperative to have a glimpse upon the facts of the matter, in dispute.



7. An application dated 29.11.2018 (Annexure P-15), was preferred by the respondent No.3/senior citizen, before the learned Maintenance Tribunal concerned, under Section 23 of the Act of 2007, seeking cancellation of the transfer deed No.3828 dated 24.12.2012 (Annexure P-4), executed by him in favour of the petitioner and respondent No.4, as well as, transfer deed dated 12.05.2017 (Annexure P-5), executed by the respondent No.4, in favour of the petitioner. The husband of the petitioner, respondent No.4, has filed a specific reply thereof, before the learned Tribunal concerned, admitting the allegations, as levelled against him, in the application (supra). Since the allegations made in the application (supra), was found to be correct, therefore, the learned Tribunal-cum-Sub Divisional Magistrate, Zira, District Ferozepur, Punjab (respondent No.2), through an order dated 24.01.2019 (Annexure P-18), has cancelled the transfer deed No.3828 dated 24.12.2012 (Annexure P-4). Aggrieved with the same, the petitioner preferred the statutory appeal, under the Act of 2007, which was dismissed by the learned Appellate Tribunal-cum-Deputy Commissioner, Ferozepur (respondent No.1), vide order dated 25.05.2022 (Annexure P-20).

8. Now, this Court has to examine, as to whether, the averments made in the application are sufficient to invoke the provisions of Section 23 of the Act of 2007, and for this, it is relevant to have a glimpse of the same, which is extracted hereinafter:-

“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. The above extracted provisions empowers the senior citizen to seek cancellation of any transfer of property executed by them, either by way of gift deed, or otherwise; provided that the transferee has undertaken the obligation to provide basic amenities and maintenance to the senior citizen and the transferee failed to provide the promised maintenance, in that eventuality, such transfer of property shall be deemed to have been made by fraud, coercion or undue influence.

10. Sub-clause (1) of Section 23 of the Act of 2007, creates a legal fiction and empowers the learned Tribunal concerned, to presume that the transfer is the result of fraud, coercion or undue influence, in case, the transfer is made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, and post the execution of the transfer deed, the transferee fails to keep the promise.

11. Two ingredients, which are essential to be established by leading

the cogent evidence. First, that the transfer was subject to the condition that



the transferee shall provide the basic amenities and basic physical needs; second, post the transfer of execution of the transfer deed, the transferee failed to provide the basic amenities and physical needs.

12. At this stage, it is relevant to examine the contents of the application dated 29.11.2018 (Annexure P-15), preferred by the respondent No.3, under Section 23 of the Act of 2007, upon which the impugned order(s), were passed. The relevant is extracted hereinafter :-

“3. That in the month of December-2012, both the respondents had requested the applicant to transfer the land in dispute to respondent no. 1 on the ground that the applicant has become old and is being properly served by the respondents. The applicant had full faith in the respondents and due to love and affection with the respondents, the applicant agreed to transfer some land in favour of respondent no. 1, through transfer deed.

4. That on 24-12-2012, both the respondents brought the applicant in Tehsil Compound, Zira and got the transfer deed executed from a deed writer which was not read over and explained to the applicant and the same was got registered by the respondents from the office of Sub Registrar, Zira. The applicant has full faith in the respondents and was also under the influence of the respondents, so, he did not inquire about the detail of the land. The copy of transfer deed is attached herewith.

5. That in the month of May-2017, both the respondents had decided to transfer some land by respondent no. 1 in favour of respondent no. 2 and for this purpose, the respondent no. 1 had executed a transfer deed in favour of respondent no. 2, which was registered in the office of Sub Registrar, Zira. The copy of transfer deed is attached herewith.

6. That both the respondents had mala fide intention in their mind. After the month of May-2017, both the



respondents in connivance with each-other have started harassing the applicant and they used to maltreat the applicant by one way or the other. Ultimately, about one year back, both the respondents have turned out the applicant from their house and have refused to serve and maintain the applicant. It was a shocking incident for applicant. The applicant collected some respectable persons and requested the respondents in panchayat to treat him properly, but they both refused, mis-behaved with the applicant and openly declared that now, the respondent no. 2 is the owner of the land and applicant can do whatever he wants to do.”

13. The perusal of the above reflects that the applicant/respondent No.3, has taken two different stands. In Paragraph 3 of the application (supra), he submits that on account of full faith in petitioner and her husband, as well as, due to love and affection, he agreed to transfer some land in their favour, through a transfer deed. However, in Paragraph No.4, it has been alleged that he was brought in the Tehsil Compound, Zira, and got the transfer deed executed from a deed writer, which was not read over and explained to him. Since, he was under the influence of the petitioner and her husband, therefore, he did not enquire about the details of the land. The stand taken by the respondent No.3, in the application (supra), does not even specify the requisite ingredients entitling the learned Maintenance Tribunal concerned, to invoke its jurisdiction with the aid of Section 23 of the Act of 2007. Even, perusal of the transfer deed No.3828 dated 24.12.2012 (Annexure P-4), reveals that there is no such recital that the said transfer was subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor.



14. Hon'ble Supreme Court, in case titled '***Sudesh Chhikara vs. Ramti Devi and another***, Civil Appeal No.174 of 2021, decided on 06.12.2022, 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.”

15. Similar observations were made by a Co-ordinate Bench of this Court, in case titled '*Tilak Raj vs. State of U.T. Chandigarh and others*', CWP-414-2025, decided on 13.01.2025, 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 learned Tribunal concerned, in order to establish a breach thereof. It is only upon fulfillment of these conditions that the relief under Section 23 of the Act of 2007, 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.”

16. 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 Division Bench of this Court, by drawing an 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.”

17. *Per se* at the cost of repetition, the transfer deed in question contains no recital obligating the petitioner to provide the basis amenities and basis physical needs to the respondent No.3/senior citizen. Moreover, the application preferred by the senior citizen, before the learned Maintenance Tribunal concerned, does not carry any of the ingredients, requiring to invoke



18. This Court can safely conclude that the learned Maintenance Tribunal concerned, has not examined these facts in its right perspective. Therefore, the impugned order(s) requires interference of this Court, by invocation of writ jurisdiction. It has also surfaced from the record that it is a collusive application preferred by the husband of the present petitioner. He has specifically admitted the allegations, as levelled against him, by the respondent No.3/senior citizen, by filing a specific reply before the learned Maintenance Tribunal concerned, and only on the basis of the same, the learned Tribunal has proceeded further to cancel the transfer deed, in question.

The relevant is extracted hereinafter :-

“After hearing both the counsel and the parties I have come to the conclusion that the applicant has a dispute with son, respondent Pargat Singh and the allegation as mentioned in the application are correct, which has also been accepted by the respondent no. 1. Hence the allegation mentioned in the application being proved the application is allowed and by exercising the powers provided under section 23 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, the transfer deed executed by the applicant in favor of the respondent no. 1 vide Vasika No. 3828 dated 24-12-2012, the details of which is mentioned in the head note is canceled. The file after completion and in order be consigned to record room.”

19. It is relevant to note that despite the transfer deed in question, respondent No.3/senior citizen, still owns about 34 acres of land. Therefore, he cannot be considered to be dependent upon the proceeds of the land, which was transferred, through the deed, in question. Resultantly, the stand taken by the respondent No.3/senior citizen, to the effect, that the said transfer was



solitary on the condition of maintaining him and providing him basic amenities and basis physical needs, also does not carries any weight.

20. In summa, the instant writ petition is **allowed**, and the impugned order dated 25.05.2022 (Annexure P-20), passed by the learned Appellate Tribunal-cum-Deputy Commissioner, Ferozepur (respondent No.1), as well as order dated 24.01.2019 (Annexure P-18), passed by the learned Tribunal-cum-Sub Divisional Magistrate, Zira, District Ferozepur, Punjab (respondent No.2), are hereby **set aside**.

(KULDEEP TIWARI)
JUDGE

November 11, 2025
Manpreet

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