

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

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CWP-26419-2025

Date of Decision : October 17, 2025

PALO

-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Kamaldip Singh Sidhu, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, Addl. A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, a prayer has been made for setting aside the order dated 01.04.2025, whereby the Appellate Tribunal has allowed the statutory appeal preferred by the respondent No.4 against the order dated 19.07.2023 passed by the Maintenance Tribunal.

2. Succinctly stated, the petitioner had filed an application under Sections 5 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) before the Maintenance Tribunal, praying for a declaration that Transfer Deed No.23 dated 12.04.2016, executed by her in favour of her real brother/respondent No.4, who himself is a senior citizen, in respect of land measuring 11 Kanals 15 Marlas and 8 Sarsai, be declared null and void. The Maintenance Tribunal, without assigning cogent reasons or examining whether the grounds urged for cancellation of the transfer deed fell within the ambit of Section 23 of the Act of 2007, proceeded to cancel

the said transfer deed vide order dated 19.07.2023. This cancellation order caused pain to the respondent No.4 and propelled him to file a statutory appeal before the Appellate Tribunal. Upon consideration, the Appellate Tribunal observed that the transfer deed contained no recital or stipulation making the transfer conditional upon respondent No.4 maintaining or providing for the petitioner. Consequently, the Appellate Tribunal interfered with and set aside the order dated 19.07.2023 by allowing the appeal through the impugned order dated 01.04.2025.

3. Learned counsel for the petitioner submits that the execution of the transfer deed was vitiated by fraud practised upon the petitioner, and therefore, the Maintenance Tribunal rightly exercised its jurisdiction in cancelling the same. It is submitted that such power and right is traceable to the provisions of the Act of 2007, which is a benevolent legislation aimed at protecting the life and property of senior citizens and shielding them from unnecessary civil litigation.

4. Learned counsel for the petitioner further submits that the Appellate Tribunal failed to appreciate the issue relating to the petitioner's maintenance while passing the impugned order. Reliance is placed on the judgment of the Bombay High Court in *Ashish Vinod Dalal & Ors. vs. Vinod Ramanlal Dalal & Ors., Writ Petition No.2400 of 2021, decided on 15.09.2021*, to contend that even inherited properties fall within the ambit of the Act of 2007.

5. This Court has considered the submissions advanced by learned counsel for the petitioner and perused the record. In order to adjudicate the dispute at hand, it is deemed imperative to begin with

examining Section 23 of the Act of 2007, which is reproduced hereunder:-

“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.”

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.

8. It is deemed imperative, at this juncture, to capture a concise and compendious version of the grounds recorded by the petitioner in her application under Section 5 and 23 seeking cancellation of the transfer deed. The only ground urged therein was that the execution of the transfer deed was the result of fraud and misrepresentation. It was specifically alleged that the petitioner, being illiterate, was misled by the respondent No.4/her real brother, under the pretext of obtaining her widow pension, and her thumb impressions were fraudulently obtained on the transfer deed in the office of the Sub-Registrar concerned. The relevant paragraphs of the application are extracted hereunder:-

“5. That the petitioner had come to village Masitan to met her brother i.e. respondent Shubeg Singh at his house at village Masitan. The respondent told the petitioner that he will get the widow pension to the petitioner and for this purpose the respondent took the petitioner in the office of Joint Sub Registrar Kot-Ise-Khan and the respondent had prepared the transfer deed No.23, Dated 12-04-2016 from the scribe inclusion with the witnesses and got thumb mark on the transfer deed from the petitioner with reference that these documents are regarding the pension of petitioner. The petitioner is an illiterate and old lady on the faith of respondent being a brother the petitioner thumb marked the transfer deed.

6. That the respondent with the intention to cheat or fraud with the petitioner got prepared the registered transfer deed of entire land of petitioner and the respondent got entered the mutation of the land of petitioner in his favour. The petitioner was an illiterate old lady and did not know or understand the documents which were got thumb marked by the respondent.

7. That in this way the respondent has committed a fraud with the petitioner and grab the entire land of petitioner without giving any amount. The respondent alongwith the scribe and witnesses, got prepared the forged transfer deed No.23 in his favour.

8. *That by this fraudulent way, the respondent had obtained the thumb impression of petitioner on the property transfer document and grab the property which is the only source of petitioner's lively hood."*

9. Perusal of the application makes it abundantly clear that the property was not voluntarily transferred by the petitioner to the respondent No.4 on any express or implied condition of maintenance, nor any such plea was raised before the Maintenance Tribunal, as is evident from the excerpts referred to above. On the contrary, the execution of the transfer deed has been alleged to be the result of fraud and misrepresentation. Although an application under Section 23 may, in certain circumstances, be maintainable even in the absence of an express condition, the facts and circumstances of the present case do not justify the invocation of Section 23 of the Act.

10. Furthermore, although the Appellate Tribunal has set aside the order of the Maintenance Tribunal on different grounds, this Court is of the considered view that the application filed under Sections 5 and 23 of the Act of 2007 was itself not maintainable, being beyond the statutory scope of the Act. Accordingly, the instant writ petition is **dismissed** as being devoid of merit.

11. However, it is clarified that if the petitioner continues to harbor any grievance regarding the execution of the transfer deed on the ground of fraud or misrepresentation, she shall be at liberty to challenge its validity by availing appropriate alternative/statutory remedies. The impugned order shall not be construed to be any legal impediment for the petitioner to take such alternative remedy(ies).

October 17, 2025
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(KULDEEP TIWARI)
JUDGE

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