

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

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CWP-877-2023

Date of Decision : May 08, 2026

ASHISH KUMAR

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Jaishree Kaushik, Advocate, for
Mr. Suresh Kumar Kaushik, Advocate
for the petitioner.

Mr. Bhupender Singh, Addl. A.G., Haryana.

Mr. G.S. Bedi, Advocate
for the respondents No.4 and 5.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner seeks to challenge the order dated 30.11.2022 passed by the Appellate Tribunal, whereby the statutory appeal filed by respondent No.4 was allowed, and the order dated 17.02.2022 passed by the Maintenance Tribunal has been set aside.

2. Succinctly stated, the respondent No.4 filed a petition under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) before the Maintenance Tribunal, seeking cancellation of the transfer deed dated 20.04.2018 executed in favour of the petitioner and respondent No.5. Although the Maintenance Tribunal dismissed the petition vide order dated 17.02.2022, it directed the petitioner and respondent No.5 not to transfer the house in question to any third party without the permission of respondent

No.4. Aggrieved thereby, respondent No.4 filed a statutory appeal before the Appellate Tribunal, which was allowed vide the impugned order dated 30.11.2022, resulting in cancellation of the transfer deed dated 20.04.2018.

3. At the outset, learned State counsel draws the attention of this Court to Haryana Government's notification dated 08.12.2020, prescribing the composition of the Maintenance Tribunal and Appellate Tribunal, to submit that the order dated 17.02.2022 passed by the Maintenance Tribunal suffers from illegality, having been passed *coram non judice*. It is submitted that under the notification (*supra*), both the Maintenance Tribunal and the Appellate Tribunal are required to comprise three members, with the Sub-Divisional Magistrate and the Deputy Commissioner acting as their respective Chairmen. In the present case, however, the order dated 17.02.2022 was passed solely by the Sub-Divisional Magistrate. Therefore, the said order was rendered without the mandated coram, rendering it illegal and without jurisdiction. In support of this contention, reliance is placed on the ***judgment dated 26.10.2016*** rendered by a Coordinate Bench of this Court in ***CWP No.18784 of 2015***, the relevant paragraph whereof is extracted hereunder:

"I have heard learned counsel for the parties and perused the record with able assistance and am of the considered opinion that the impugned order passed by the Appellate Authority is patently without jurisdiction because as per the Scheme of the Act, the Tribunal and the Appellate Tribunal are constituted by the State Government by way of notification and the appeal has to be decided by the duly constituted Tribunal. In the present case, notification dated 10.12.2012 has been relied upon to which there is no contrary notification produced before this Court. In this notification, the Tribunal has been specifically constituted for Kurukshetra in which there are three Members. District Magistrate may be the Chairman

of the Tribunal but once there is a Tribunal of three Members, the District Magistrate has no jurisdiction to take decision alone and the decision has to be taken unanimously or by way of majority. Therefore, on this ground alone, the impugned order deserves to be set aside and thus the present writ petition is hereby allowed and impugned order is set aside and the matter is remanded back to the Tribunal constituted as per notification dated 10.12.2012 to decide the matter afresh after affording due opportunity of hearing to both the parties and by passing a reasoned order.”

4. Learned counsel for the petitioner and for the respondents No.4 and 5 do not dispute that the order dated 17.02.2022 passed by the Maintenance Tribunal is vitiated as it was passed *coram non judice*.

5. Having considered the submissions of learned counsel for the parties and perused the record, this Court finds that the order dated 17.02.2022 was passed by authority lacking jurisdiction and lawful coram prescribed in the notification dated 08.12.2020. Consequently, the same is a nullity in the eyes of law and cannot be sustained.

6. Further, since the Appellate Tribunal overlooked the aforesaid infirmity that the order dated 17.02.2022 was vitiated having been passed *coram non judice*, and proceeded to set it aside vide its order dated 30.11.2022, the appellate order is also unsustainable and deserves interference.

7. Accordingly, **the orders dated 17.02.2022 and 30.11.2022, passed respectively by the Maintenance Tribunal and the Appellate Tribunal, are hereby set aside.** The matter is remanded to the Maintenance Tribunal concerned for fresh adjudication in accordance with the provisions of the Act of 2007. The parties shall cause appearance before the Maintenance Tribunal on 25.05.2026, whereupon the latter shall endeavour

to decide the matter expeditiously, preferably within 04 months, but after affording adequate opportunity of hearing to all parties concerned.

8. It is further directed that no third-party rights shall be created in respect of the house in question until the matter is finally adjudicated by the Maintenance Tribunal.

9. **Disposed of accordingly.**

May 08, 2026
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(KULDEEP TIWARI)
JUDGE

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