



CWP-1525-2020

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

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CWP-1525-2020

Date of decision: 06.05.2026

BIMLA DEVI

.... Petitioner

Vs.

**APPELLATE TRIBUNAL, MAINTENANCE AND WELFARE OF
PARENTS AND SENIOR CITIZENS ACT, 2007 AND OTHERS**

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Shashikant Gupta, Advocate,
for the petitioner.

Mr. Bhupender Singh, Addl.AG, Haryana.

Mr. Raj Kumar Rathore, Advocate,
for respondent No.3.

KULDEEP TIWARI, J (Oral)

1. Through the instant petition, cast under Article 226/227 of the Constitution of India, the petitioner seeks quashing of order dated 14.11.2019 (Annexure P-8), passed by the District Magistrate (respondent no.2), on the ground that it has been passed without jurisdiction, as the remedy of appeal available to him under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007'), has been snatched away.

2. Respondent no.3 (senior citizen) filed an application (Annexure P-2) under Section 22(2) of the Act of 2007, against her daughter, with a prayer for her eviction from his residential house No.115, Ward No15, Indira Colony, Narnaul, before the District Magistrate (Appellate Authority under the Act of 2007). The said application was, subsequently, transferred



learned Maintenance Tribunal vide order dated 12.12.2018 (Annexure P-3), again transferred the application to the District Collector, Mahendergarh, as in the application there was a prayer of eviction. Thereafter, again the District Collector concerned, by referring the various provisions of the Act of 2007, finally concluded that they can hear only the appeals under Section 16 of *ibid* Act, and remanded the application back to the learned Maintenance Tribunal vide order dated 03.01.2019 (Annexure P-4), to pass a final order. Despite such order was passed, again the District Collector, Mahendergarh, in his individual capacity vide order dated 14.11.2019 (Annexure P-8), passed the impugned order, whereby eviction order was passed.

3. Learned counsel for the petitioner made twofold legal submissions; first, that the application for eviction filed under Section 22(2) of the Act of 2007, is very much maintainable before the learned Maintenance Tribunal concerned, as notified by the Government of Haryana.; secondly, that even the impugned order passed by the District Collector i.e. the Appellate Authority, suffers from *coram non judice*.

4. He placed reliance upon notification No.S-34(SS)2024/31854, dated 29.08.2024. The relevant portion is extracted herein below:-

“This department under section 22(1) & (23) of the Punjab Maintenance and Welfare of Parents and Senior Citizens Act 2007 and under section 23 of Rules 2012 prepared an Action Plan vide notification No. 10/20/204-DC/363250/1 Dated 27.11.2014. Under this Action Plan District Magistrates were granted powers of eviction. These powers of eviction were challenged in the Hon'ble Punjab & Haryana High Court in Simrat Randhawa Case, and the Hon'ble High Court struck off the Action plan vide orders dated 21.01.2020 so in compliance to Orders dated 23.1.2020, this department issued instruction to all District Magistrates vide letter dated 17.02.2023 not to proceed with eviction.

Now, Hon'ble Justice Behl, Punjab and Haryana High Court has passed Orders dated 18.12.2023 in the CWP No. 27195 of 2023



titled as Gurdial Singh V/s State of Punjab & others, the relevant extract of same is as under:-

"Whereas, power of eviction had been conferred by the State Government to all the District Magistrates in the State of Punjab by notifying an Action Plan, 2014 but the same was struck off to the extent of Clauses 1 to 3 which are reproduced ax under:-

(1) Procedure for eviction from property/residence building belonging to/occupied by senior citizens/parents,

(2) Eviction order from property/residential building of senior citizens/parents and

(3) Enforcement of orders by a coordinate Bench of the Hon'ble High Court by passing the judgment dated 23.01.2020 in CWP No.4744 of 2018 titled as Simrat Randhawa Vs. State of Punjab and others and there is no stay in operation of judgment dated 23.01.2020 in LPA No.702 of 2021 titled as State of Haryana and others vs. Simrat Randhawa filed by the State of Haryana.

In the present matter, an application has been made before the District Magistrate for eviction, and the District Magistrate is unable to pass the eviction orders as the Action Plan, 2014, under which he was empowered to evict, has already been struck off, as mentioned above. Hence the Maintenance Tribunals can pass the eviction order in view of provisions of Section 23 of the said Act as there is no bar in the same, but the District Magistrate cannot pass the eviction orders on account of the Judgement dated 23.01.2020 in Simrat Randhawa's case (supra).

As per the provisions of the Punjab Maintenance and Welfare of Parents and Senior Citizens Act 2007, District Magistrates are head of Appellate Tribunals, and SDM's are head of Maintenance Tribunals, therefore, in view of Court Order dated 18.12.2023 all SDM's in the state of Haryana, are requested to comply with the orders dated 18.12.2023 of Hon'ble Punjab and Haryana High Court in letter and spirit."

5. He further submits that post drawing the verdict on 23.01.2020, by a co-ordinate bench of this Court in "**Simrat Randhawa vs. State of Punjab and Ors.**" (CWP-4744-2018), the eviction application ought to have been adjudicated by the notified Maintenance Tribunal only.

6. He also draws attention of this Court towards a notification No.1041-SW(4)-2020, dated 08.12.2020, prescribing the composition of the Maintenance Tribunals and Appellate Tribunals in the State of Haryana. The relevant portion is extracted herein below:-



“No. 1041-SW(4)-2020.— *In continuation of the Haryana Government Notification No. 1373-SW(4)-2016, dated 17.11.2016, the Governor of the Haryana is pleased to reconstitute the three Member (One Official Member and Two Non-Official Members) Maintenance Tribunal/Appellate Tribunal at the following Sub-Divisional level and District level under the Chairmanship of each Sub-Divisional Magistrate and District Magistrate respectively within their respective jurisdiction as per provisions of Section-7 and 15 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and further nominate the other two Non-Official Members of both the Tribunals. The tenure of the Non-Official Members shall be three years from date of joining and both the Tribunals will perform duties/functions as per the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 read with Haryana Maintenance of Parents and Senior Citizens Rules, 2009.*

<i>Appellate Tribunal, Mahendergarh at Narnaul</i>		
<i>1</i>	<i>Deputy Commissioner</i>	<i>Chairman</i>
<i>2</i>	<i>Dr. Amilal S/o Sh. Mohar Singh, Opposit Railway Station, NNL</i>	<i>Non-Official Member</i>
<i>3</i>	<i>Sh. Dheeraj Kalra S/o Sh. Nandlal Kalra, Mohalla Misharwada, Near Satyanarayan Mandir, Pustak Gali, NNL</i>	<i>Non-Official Member</i>
<i>Maintenance Tribunal, Mahendergarh at Narnaul</i>		
<i>1</i>	<i>Sub Divisional Magistrate</i>	<i>Chairman</i>
<i>2</i>	<i>Sh. Omprakash Wadwa S/o Sh. Sidhram Wadhwa, Mohalla Shastri Nagar, Ward No. 2 NNL</i>	<i>Non-Official Member</i>
<i>3</i>	<i>Sh. Sham Sunder Sharma S/o Sh. Shri Niwas Sharma, Village Atali Mandi, Distt. Mahendergarh</i>	<i>Non-Official Member</i>

7. On the other hand, learned counsel for respondent no.3, submits that the petitioner is not the daughter of respondent no.3, rather, she was only allowed to stay in the house, so as to take care of her, and after entering the house, the petitioner, in fact, has thrown her out, who is the original owner of the house. Therefore, at present, respondent no.3 is wondering here and there without having any house to live in.

8. This Court has examined the application (*supra*), and finds that it is not maintainable before the Appellate Tribunal-cum-District Magistrate,



Maintenance Tribunal, presided over by the Sub-Divisional Magistrate. The issue is no longer *res integra*, as it has been consistently held that applications seeking eviction orders under the Act of 2007, are required to be filed before the Maintenance Tribunal-cum-Sub-Divisional Magistrate and not before the Appellate Tribunal-cum-District Magistrate/Deputy Commissioner. A similar issue was considered by this Court in **CWP-22501-2021, which was disposed of on 27.10.2025** with the following observations:

“5. This Court has heard the submissions made by the learned counsel for the parties concerned, and has also examined the issue. In Gurdial Singh (supra) case, the Coordinate Bench of this Court, has held that since the notification has been issued by the State of Punjab, wherethrough, the powers have been bestowed with the Maintenance Tribunal, to adjudicate the application seeking eviction. The relevant extract from the said judgment is extracted hereinafter:-

“4. A perusal of the above instructions would show that in view of the judgment passed by the Hon'ble Supreme Court and by this Court, it has been decided by the State of Punjab that the Maintenance Tribunal can pass the eviction orders in view of the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act as there is no bar regarding the same but the District Magistrate cannot pass the eviction orders on account of the judgment dated 23.01.2020 passed by a Coordinate Bench in CWP-4744-2018 titled 'Simrat Randhawa Vs. State of Punjab'. 5. Learned counsel for the petitioner has submitted that in the present case, he had filed an application before the Additional Deputy Commissioner, Patiala in pursuance of the District Magistrate having delegated its powers under Section 22 to the Additional Deputy Commissioner, Patiala and thus, he states that he may be permitted to withdraw the said application with liberty to file a fresh application before the Maintenance Tribunal in accordance with the latest instructions issued by the State of Punjab. 6. Learned counsel appearing for respondent No.3 and 4 has submitted that in case any such application is filed, respondents No.3 and 4 be permitted to raise all the pleas which are available to them, in accordance with law. 7. Keeping in view the above said facts and circumstances, the present writ petition is disposed of with the following directions:- (i) It would be open to the petitioner to file an application for eviction in addition to other pleas that he might wish to raise before the Maintenance Tribunal. (ii)



The Maintenance Tribunal would decide the same after hearing all the parties concerned and after giving due opportunity to file reply to respondents No.3 and 4. (iii) The Maintenance Tribunal would also take into consideration the instructions dated 18.12.2023 passed by the State of Punjab and decide the matter, in accordance with law. (iv) The filing of the earlier petition by the Senior Citizen before the District Magistrate/ADA and the order passed thereon by the said authority, would not come in the way of the petitioner instituting the fresh proceedings before the Maintenance Tribunal in view of the instructions dated 18.12.2023 of Government of Punjab. The above said earlier petition would be deemed to have been withdrawn, with liberty to file a fresh petition, as detailed in the present order. (v) In case any such petition is filed by the Senior Citizen, the Maintenance Tribunal is requested to decide the same, as expeditiously as possible.”

6. *In view of the above propositions laid down by Coordinate Bench of this Court, the issue, as involved in the instant writ petition, is also squarely covered therein. Therefore, the impugned order is set aside, and the Deputy Commissioner concerned, is directed to transfer the original application to the learned Maintenance Tribunal concerned, and upon such transfer, the Sub Divisional Magistrate, concerned, after giving due opportunity of hearing to both the parties, shall decide the application afresh, in accordance with the provisions of the Act of 2007.”*

9. In *summa*, the impugned order is hereby **set aside**, and the matter is **remanded** to the learned Maintenance Tribunal concerned, for afresh adjudication in accordance with law, after affording all the parties concerned, an opportunity of hearing.

10. The parties are directed to appear before the learned Maintenance Tribunal concerned on 21.05.2026 at 11.00 AM.

11. Considering the age of respondent no.3 (senior citizen), a positive *mandamus* is passed upon the learned Maintenance Tribunal concerned, that after examining all the facts and circumstances, that too, after visiting the spot etc., the original application preferred by her be decided most expeditious, but not later than 2 months from the date of receipt of a certified copy of this order.



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the complete *coram*, as per the notification (*supra*), as issued by the Government of Haryana.

13. The District Collector, Mahendergarh at Narnaul, is directed to send the original application, to the Maintenance Tribunal concerned, for the latter to decide the same, as per the notified *coram*.

14. **Disposed of** accordingly.

15. All pending application(s), if any, also stand **disposed** of accordingly.

(KULDEEP TIWARI)
JUDGE

06.05.2026
dharamvir

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