

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

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CWP-1313-2026

Date of Decision : February 26, 2026

GURMEET KAUR

-PETITIONER

V/S

**THE DEPUTY COMMISSIONER, KAITHAL CUM CHAIRMAN,
APPELLATE TRIBUNAL AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

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

Mr. Ravi Dutt Sharma, Advocate
for the respondent No.2.

Mr. A.P.S. Sehgal, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner, a septuagenarian senior citizen, impugns the order dated 09.10.2025 (Annexure P-1) passed by the Deputy Commissioner-cum-Chairman, Appellate Tribunal, Kaithal (respondent No.1).

2. Succinctly stated, the petitioner instituted an application under Sections 22 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, Kaithal, seeking cancellation of the transfer deed dated 13.06.2022, executed by her in favour of her adopted daughter/ respondent no.2, along with the consequential mutation. The Appellate

Tribunal, through the impugned order dated 09.10.2025, disposed of the application by directing the respondent no.2 to pay maintenance of ₹15,000/- per month to the petitioner. The Appellate Tribunal further observed that in the event of failure of respondent No.2 to provide maintenance, the petitioner would be entitled to seek cancellation of the transfer deed in accordance with law. Deriving grievance from non-cancellation of the transfer deed, the petitioner has approached this Court by filing the instant writ petition.

3. The principal contention advanced by learned counsel for the petitioner is that the impugned order was rendered by an authority inherently lacking statutory jurisdiction and, therefore, is liable to be set aside on this ground alone. It is submitted that under the unequivocal scheme of the Act of 2007, an application under Section 23, filed by a senior citizen seeking cancellation of a transfer deed, must be entertained and adjudicated exclusively by the three-member Maintenance Tribunal, as reconstituted for District Kaithal vide notification dated 01.04.2025 issued by the Social Justice, Empowerment, Welfare of Scheduled Castes & Backward Classes and Antyodaya (SEWA) Department, Government of Haryana, and not by the three-member Appellate Tribunal presided over by the District Magistrate/Deputy Commissioner. Despite the petitioner's application (Annexure P-7) having been duly filed before the Maintenance Tribunal, it was erroneously adjudicated by the Appellate Tribunal. Consequently, the impugned order is vitiated by a jurisdictional error, having been rendered *coram non judice*, and is therefore liable to be set aside.

4. Learned State counsel and learned counsel for respondent No.2 do not dispute that the impugned order is tainted by jurisdictional defect, having been passed *coram non judice*. They fairly concede that the petitioner's application ought to have been adjudicated by the three-member Maintenance Tribunal presided over by the Sub-Divisional Magistrate, and not by the three-member Appellate Tribunal headed by the Deputy Commissioner/District Magistrate.

5. Having considered the submissions of learned counsel for the parties and perused the record, this Court has no hesitation in holding that the impugned order dated 09.10.2025 does not pass the test of legality, as it was passed by an authority lacking jurisdiction, and is therefore a nullity in the eyes of law and cannot be sustained. Moreover, by usurping the adjudication of the petitioner's application filed under Section 23, the Appellate Tribunal has foreclosed the petitioner's statutory right of appeal under Section 16 of the Act of 2007.

6. The statutory framework clearly demarcates the original and appellate jurisdictions. A conjoint reading of Sections 2(g), 7, 16 and 23 of the Act of 2007 leaves no manner of doubt that a senior citizen/transferor seeking cancellation of a transfer deed on account of breach of the condition of providing maintenance and basic amenities must approach the Maintenance Tribunal, which alone is vested with the jurisdiction to adjudicate such claim in the first instance. An appeal against the order of the Maintenance Tribunal lies exclusively before the Appellate Tribunal under Section 16.

“2. Definitions- In this Act, unless the context otherwise requires -

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j. "Tribunal" means the Maintenance Tribunal constituted under section 7

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7. Constitution of Maintenance Tribunal

1. The State Government shall within a period of six months from the date of the commencement of this Act, by notification in the Official Gazette, constitute for each Sub-division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

2. The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

3. Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

16. Appeals

1. Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

2. On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

3. The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

4. The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

5. The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

6. The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

7. A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

“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.”

7. Furthermore, prior to the passing of the impugned order, a Co-ordinate Bench of this Court, vide order dated 23.01.2020, passed in **CWP-4744-2018**, titled **“Simrat Randhawa v. State of Punjab and Others”**, had already struck down Clauses 1 to 3 of the “Action Plan for the Protection of Life and Property of Senior Citizens,” notified under Section 22(2) of the Act of 2007, namely: (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. Although the State of Haryana has preferred an LPA against the order dated 23.01.2020, no stay has been granted by the LPA Bench. Consequently, the impugned order, having been passed despite the apposite clauses of the Action Plan having been invalidated and by an authority devoid of jurisdiction, stands vitiated as *coram non judice*.

8. In summa, **the impugned order dated 09.10.2025 is hereby set aside** and the **matter is remanded for fresh adjudication in accordance with law**. The Appellate Tribunal-cum-Deputy Commissioner, is directed to, on receipt of a certified copy of this order, forthwith transmit the original application to the Maintenance Tribunal-cum-Sub-Divisional Magistrate. The parties are directed to cause appearance before the Sub-Divisional Magistrate on 16.03.2026, whereupon the latter shall endeavour to decide the matter expeditiously, but only after due compliance with the provisions of the Act of 2007 and the apposite Rules, including the grant of a fair opportunity of hearing to all the parties concerned.

9. **Disposed of accordingly.**

February 26, 2026
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(KULDEEP TIWARI)
JUDGE

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