



CWP-1844-2025

1

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

(209)

CWP-1844-2025

Date of Decision : 07.05.2026

Chirag Khanna and another

...Petitioners

Versus

District Magistrate-cum-Appellate Tribunal, Panipat and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Dr. Vikas Rohal, Advocate
for the petitioners.

Mr. Bhupender Singh Addl. AG, Haryana.

Mr. Manvender Singh Chauhan, Advocate
for respondents No.3 to 5.

KULDEEP TIWARI, J. (ORAL)

1. Vide instant writ petition, as cast under Articles 226/227 of the Constitution of India, the petitioner impugns the order dated 20.11.2024 (Annexure P-3), passed by learned District Magistrate-cum-Appellate Tribunal, Panipat, wherethrough, the application preferred by the respondents No.3 to 5, under Section 5(1)(A) read with Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act of 2007').

2. In brief, the respondents No.3 to 5, instituted an application, under the Act of 2007, before learned Appellate Tribunal, Panipat, seeking eviction of the petitioners, from the property/shop in question. However, upon consideration of the matter in issue, the learned Appellate Tribunal has dismissed the application, by passing the impugned order.



3. At the outset, learned State counsel, as well as, learned counsel for respondents No.4 and 5, point out that the impugned order dated 20.11.2024 (Annexure P-3), was rendered by an authority inherently lacking statutory jurisdiction, and therefore, is liable to be set aside, on this ground alone. They submit that under the unequivocal scheme of the Act of 2007, an application preferred by a senior citizen seeking eviction of the private respondents, who are none other than their son and daughter-in-law, must be entertained and adjudicated exclusively by three-member Maintenance Tribunal, and not by Appellate Tribunal, straightway. In this regard, they refer to a notification No.1041-SW(4)-2020, dated 08.12.2020, issued by the Social Justice and Empowerment Department, Government of Haryana. In such a situation, the impugned order is vitiated by a jurisdictional error, having been rendered *coram non judice*, and is therefore liable to be set aside.

4. Upon being confronted, learned counsel for petitioner does not dispute that the above said factual aspect of the matter. He fairly concedes that the application preferred by the senior citizen ought to have been adjudicated by three-member Maintenance Tribunal, presided over by the Sub-Divisional Magistrate, and not by the Appellate Tribunal.

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 20.11.2024 (Annexure P-3) does not pass the test of legality, as it was passed by an authority lacking jurisdiction. Moreover, by usurping the adjudication of the application filed under the Act of 2007, the Appellate Tribunal has foreclosed the 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, and 16 of the Act of 2007, leaves no room for doubt that a senior citizen beseeching any relief under the Act (supra), must approach the Maintenance Tribunal, which alone is vested with the jurisdiction to adjudicate such claim, in the first instance. Likewise, 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 -

XX

XX

XX

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

XX

XX

XX

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.

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, (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, against the said order, the State of Haryana has preferred an appeal, but no stay has been granted by the LPA Bench of this Court.

8. Besides the above explained incurable defect, the impugned order also suffers from the vice of *coram non judice*, being passed by learned District Magistrate-cum-Appellate Tribunal, Panipat, in his individual capacity. In this regard, learned State counsel submits that in view of the notification (*supra*),



CWP-1844-2025

5

comprise of three members, with the Sub-Divisional Magistrate and the Deputy Commissioner/District Magistrate acting as their respective Chairman:-

“Notification

The 8th December, 2020

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...”

9. In summa, the impugned order dated 20.11.2024 (Annexure P-3), passed by learned District Magistrate-cum-Appellate Tribunal, Panipat, is hereby **set aside**, and the matter is **remitted** for fresh adjudication, in accordance with law. The Appellate Tribunal-cum-District Magistrate, Panipat, 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, Panipat, on 25.05.2026, whereupon, the latter shall decide the matter, after due compliance of 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. Further, the parties shall be at liberty to raise all possible



CWP-1844-2025

pleas, before the Maintenance Tribunal, which shall consider and deal therewith, before passing an appropriate order.

10. Given the age of the respondent No.3/senior citizen, the learned Maintenance Tribunal is directed to conclusively decide the matter, on its own merits, without being influenced or prejudiced, in any manner, by the order dated 20.11.2024 (Annexure P-3), within a period of four months from the date of receipt of certified copy of this order.

11. Consequently, the instant writ petition is **disposed of**.

(KULDEEP TIWARI)
JUDGE

May 07, 2026
Manpreet

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