



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

214

CWP-2140-2022

Date of decision: 08.04.2026

PUSHPA DEVI AND ANOTHER

.... Petitioners

Vs.

DEPUTY COMMISSIONER HISAR AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Amit Chaudhary, Advocate,
for the petitioners.

Mr. Bhupender Singh, Addl.AG, Haryana.

Mr. Nitin Jain, Advocate,
for respondents No.2 and 3.

KULDEEP TIWARI, J (Oral)

1. Through the instant petition, cast under Article 226/227 of the Constitution of India, the petitioners have challenged the legality of order dated 07.09.2021 (Annexure P-1), passed by the District Magistrate, Hisar (respondent no.1), as the application preferred by them under Section 22 (2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007'), was dismissed.

2. The sole argument, as raised before this Court by learned counsel for the petitioners is that, the application (*supra*), is ought to have been transferred to the learned Maintenance Tribunal concerned, as notified by the Government of Haryana. Therefore, the impugned order passed by the District Magistrate, which is an appellate authority under the Act of 2007, is without jurisdiction.

3. 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 Magistrate were granted powers of eviction. These powers of eviction were challenged in the Hon'ble Punjab & High Court in Simrat Randhawa Case and Hon'ble 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 as 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 Ms. Simrat Randhawa filed by the State of Haryana.*

In the present matter in hand, 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 hand 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 under state are requested to comply with the orders dated 18.12.2023 of Hon'ble Punjab and Haryana High Court in letter and spirit."

4. 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.

5. This Court has examined the application (*supra*), and finds that it is not maintainable before the Appellate Tribunal-cum-District Magistrate, as such applications ought to have been filed before the 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.”

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

7. The parties are directed to appear before the learned Maintenance Tribunal concerned on 30.04.2026 at 11.00 AM.



8. It is expected that the application shall be heard and decided by the complete *coram*, as per the notification (*supra*), as issued by the Government of Haryana.

9. The District Magistrate, Hisar, is directed send the application (*supra*), to the Maintenance Tribunal, Hisar, for the latter to decide the same, as per the notified *coram*.

10. **Disposed of** accordingly.

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

(KULDEEP TIWARI)
JUDGE

08.04.2026

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