

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

204

CWP-2137-2026

Date of Decision : April 22, 2026

RAJ KUMAR AND ANOTHER

-PETITIONERS

V/S

DEPUTY MAGISTRATE AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Nikhil Vats, Advocate
for the petitioners.

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

Mr. Ajay Ghangas, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioners seek to set aside the orders dated 07.03.2025 and 31.10.2025, passed respectively by the Maintenance Tribunal and the Appellate Tribunal.
2. Succinctly stated, the respondent No.3 instituted an application under Section 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, seeking eviction of the petitioners from the house in question. Vide order dated 07.03.2025, the Maintenance Tribunal partly allowed the application, directing the petitioners to permit the respondent No.3 to reside in the lower portion of the house and to remove their belongings therefrom, and further restrained them from interfering with the peaceful occupation of the respondent No.3. This order caused pain to both the petitioners as well as the respondent No.3 and propelled them to institute

separate appeals, which came to be decided by a common order dated 31.10.2025. Vide the said order, the appeal preferred by the petitioners was dismissed, whereas the appeal preferred by the respondent No.3 was allowed, and the petitioners were directed to hand over vacant possession of the house in question to the respondent No.3 within a period of 30 days. In this way, deriving grievance from their eviction, the petitioners have approached this Court assailing the orders (*supra*).

3. At the outset, learned counsel for the petitioners draws the attention of this Court to a notification dated 08.12.2020, prescribing the composition of the Maintenance Tribunals and Appellate Tribunals, to submit that the impugned orders suffer 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/District Magistrate acting as their respective Chairmen. In the present case, however, the impugned orders have been passed solely by the Sub-Divisional Magistrate and District Magistrate, thereby lacking the mandated coram. 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 State counsel and learned counsel for the respondent No.3 do not dispute that the impugned orders are vitiated, as they have been passed *coram non judice*.

5. Learned counsel for the respondent No.3, who is appearing under a memorandum of appearance instituted before this Court today, is directed to file a validly executed Vakalatnama in his favour before the Registry within 30 days from today.

6. Having considered the submissions of learned counsel for the parties and perused the record, this Court finds that once an order is found to have been passed by an authority lacking jurisdiction or lawful coram, it is a nullity in the eyes of law and cannot be sustained.

7. Accordingly, the **impugned orders are hereby set aside**, having been passed by the Maintenance Tribunal and the Appellate Tribunal in the absence of the coram mandated by the notification (*supra*). The matter is remanded to the Maintenance Tribunal concerned for fresh adjudication in accordance with the provisions of the Act of 2007 and the

relevant Rules framed thereunder. Both the parties are directed to cause appearance before the Maintenance Tribunal on 15.05.2026, whereupon the latter shall endeavour to decide the matter expeditiously, but after affording adequate opportunity of hearing to the parties.

8. Disposed of accordingly.

April 22, 2026
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(KULDEEP TIWARI)
JUDGE

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