

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

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CWP-3903-2022

Date of Decision : February 17, 2026

KAPUR SINGH

-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. P.K. Kapila, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

Mr. Gaurav Tangri, Advocate
for the respondent No.4.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, an octogenarian senior citizen, has knocked on the doors of this Court seeking to set aside the orders dated 21.12.2020 and 17.11.2021, passed by the Maintenance Tribunal and the Appellate Tribunal, respectively.

2. Succinctly stated, the petitioner filed a petition under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the “Act of 2007”), seeking cancellation of Transfer Deed No.650 dated 23.12.2016, executed by him in favour of his sons, namely respondents No.4 and 5, along with cancellation of the consequential mutation. The application did not find favour with the Maintenance Tribunal and was dismissed vide order dated 21.12.2020. Aggrieved thereby, the petitioner instituted an appeal before the Appellate Tribunal, which also met the same fate of dismissal vide order dated

17.11.2021.

3. Assailing the impugned orders, learned counsel for the petitioner contends that the Act of 2007 is a benevolent legislation intended to protect senior citizens and ensure their basic needs are met. It is contended that post execution of the transfer deed in question, the respondents No.4 and 5 not only failed to provide maintenance to the petitioner but also subjected him to ill-treatment and harassment, including physical assault, instances whereof were quoted in the petition and such assault led to the registration of an FIR at the petitioner's instance. Accordingly, it is argued that the Maintenance Tribunal ought to have invoked Section 23 of the Act of 2007 to cancel the transfer deed.

4. Conversely, learned counsel for the respondent No.4 submits that the transfer deed in question does not contain any recital or stipulation rendering the transfer conditional upon the transferees maintaining or providing for the transferor, which is a *sine qua non* for invoking Section 23. It is further submitted that the present proceedings are a fallout of an *inter se* family property dispute between the respondents No.4 and 5, and that the petition under Section 23 was engineered at the instance of respondent No.5 to secure an advantage in that dispute, thereby amounting to a misuse of the provisions of the Act of 2007 and an abuse of the process of law.

5. Elaborating on the aforesaid submission, learned counsel contends that the petitioner was the owner of approximately 42 Bighas of land, out of which 21 Bighas were transferred in equal shares to the respondents No.4 and 5, and 18 Bighas along with one shop were transferred in favour of the grandsons (sons of respondent No.5).

Significantly, in the petition under Section 23, the petitioner sought cancellation only of the transfer deed pertaining to 21 Bighas executed in favour of the respondents No.4 and 5, while no challenge was laid to the transfer of 18 Bighas and one shop in favour of the sons of respondent No.5. It is thus argued that the selective challenge itself demonstrates that the proceedings have been initiated at the behest of respondent No.5 to settle a property dispute with respondent No.4. It is also submitted that a civil suit seeking cancellation of the same transfer deed is already pending adjudication.

6. This Court has considered the submissions advanced by learned counsel for the parties and perused the record. In order to adjudicate the dispute at hand, it is deemed imperative to begin with examining Section 23 of the Act of 2007, which is reproduced hereunder:-

“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. The Act of 2007 was enacted to uphold the traditional norms of Indian Society emphasizing the duty of children and relatives to provide for senior citizens. Accordingly, its provisions must be interpreted to achieve the legislative intent, while ensuring that the Act is not misused for the resolution of ordinary civil or property disputes within families.

8. The provisions, referred to above, empower the senior citizens to seek cancellation of any transfer of property executed by them, either by way of gift deed, or otherwise; with a condition that the transferee has undertaken the obligation to provide basic amenities and maintenance to them. In case, the transferee fails to adhere to the promised maintenance, the transfer of property shall be deemed to have been made by fraud, coercion or undue influence.

9. Sub-clause (1), creates a legal fiction and empowers the learned Tribunal concerned, to presume that the transfer is the result of fraud, coercion or undue influence, in case, the transfer is made subject to the condition that the transferee shall provide the basic amenities, and basic physical needs to the transferor, and post the execution of the transfer deed, the transferee fails to keep the promise.

10. Two ingredients are essential to be established by leading the cogent evidence. The first ingredient is that the transfer was subject to the condition that the transferee shall provide the basic amenities and basic physical needs; and the second is, post execution of the transfer deed, the transferee failed to provide the basic amenities and physical needs.

11. There is no wrangle between the contesting litigants that the transfer deed in question contains no recital or stipulation making the

transfer conditional upon the respondents No.4 and 5 maintaining or providing for the petitioner. Furthermore, no averment was made in the petition under Section 23 that the transfer was executed subject to such a condition, nor was any cogent evidence led to establish the existence of any such implied or preexisting condition.

12. While it is acknowledged that, in certain circumstances, an application under Section 23 may be maintainable even in the absence of an express condition in transfer deed, the facts and circumstances of the present case do not warrant the invocation of Section 23. A holistic reading of the petition under Section 23 and the transfer deed in question makes it evident that the requisite ingredients for the Maintenance Tribunal to exercise its powers under Section 23 were absent.

13. *Prima facie*, it appears that the provisions of the Act of 2007 have been invoked as a stratagem to resolve a family property dispute between the respondents No.4 and 5, which is impermissible and contrary to the legislative intent underlying the said enactment.

14. Consequently, this Court finds no merit in the present writ petition, and the same is accordingly **dismissed**.

February 17, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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