

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

207

CWP-5553-2021

Date of Decision : April 07, 2026

AMARJIT SINGH

-PETITIONER

V/S

**THE DEPUTY COMMISSIONER CUM APPELLATE TRIBUNAL
AND ORS.**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sarju Puri, Sr. Advocate, with
Ms. Nabeem A. Sheikh, Advocate
for the petitioner.

Mr. Keshav Pratap Singh, Advocate, with
Mr. Namish Sodhi, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner impugns the order dated 06.03.2020 passed by the respondent No.2- Maintenance Tribunal, whereby the application preferred by his father (respondent No.3) under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) was allowed and the transfer deed executed in favour of the petitioner was cancelled. The petitioner further assails the order dated 03.02.2021 passed by the respondent No.1- Appellate Tribunal, whereby his statutory appeal under Section 16 of the Act of 2007 was dismissed.
2. Assailing the impugned orders, learned senior counsel for the petitioner submits that the application under Section 23 of the Act of 2007 conspicuously lacked the necessary pleadings to invoke the said provision

for cancellation of the transfer deed. It is contended that the application did not disclose any specific instance of neglect or failure on the part of the petitioner, as transferee, to maintain respondent No.3 after execution of the transfer deed, nor was any evidence adduced by respondent No.3 to substantiate such allegations. Moreover, respondent No.3 did not enter the witness box to support his claims of neglect and non-maintenance. Consequently, an adverse inference ought to have been drawn against respondent No.3, however, the Tribunal failed to do so and further erred in not appreciating the evidence led by the petitioner in its proper perspective.

3. Learned senior counsel further submits that this litigation is, in fact, instigated by the petitioner's brother with the oblique motive of settling *inter se* family property dispute under the garb of the Act of 2007, thereby amounting to an abuse of the process of law and misuse of the said enactment. It is contended that respondent No.3 is financially independent and, during the pendency of the instant *lis*, even transferred additional land in favour of the petitioner's brother, demonstrating that he is not dependent on maintenance. It is nonetheless asserted that the petitioner has, at all times, been ready and willing to maintain respondent No.3. In support of his contentions, learned senior counsel places reliance upon the judgments rendered by this Court and a Co-ordinate Bench in ***CWP-12664-2023 (Chattan Singh vs. The Deputy Commissioner-cum-Presiding Officer, Maintenance Appellate Tribunal, Mohali, District Mohali and others)***, ***CWP-17815-2024 (Visakha Singh vs. Deputy Commissioner and others)***, and ***CWP-17873-2024 (Narain Singh and another vs. Deputy Commissioner-cum-District Magistrate, Patiala and others)***.

4. *Per contra*, learned counsel for the respondent No.3 defends the impugned orders and submits that the application under Section 23 specifically averred that the land was transferred in favour of the petitioner out of love and affection, without consideration, and subject to the condition that the petitioner would provide maintenance and basic amenities to respondent No.3 so as to enable him to live with dignity. It is further submitted that the transfer deed itself contains an explicit stipulation entitling respondent No.3 to seek cancellation in the event of failure on the part of the petitioner to discharge his obligations of maintenance.

5. It is further contended that, in support of his case of neglect and abandonment, respondent No.3 examined an independent witness, namely Gurmukh Singh, Sarpanch of the village concerned, who categorically deposed that the petitioner never provided any financial assistance from abroad to his aged and ailing father.

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. At the outset, there is no wrangle between the contesting litigants that the transfer deed in question contains an explicit and unequivocal stipulation rendering the transfer conditional upon the petitioner maintaining and providing for respondent No.3. The relevant portion of the transfer deed is reproduced hereunder:-

“...I am or my any other relative have no concern with the aforesaid land. I shall have no objection to the sanctioning of mutation as per the transfer deed. In case my son Amarjit Singh do not serve me, I shall be entitled to get this transfer deed cancelled....”

12. Furthermore, a perusal of the application under Section 23 reveals specific and categorical assertions that the petitioner secured execution of the transfer deed on the assurance of maintaining respondent No.3 and providing him with basic amenities during his lifetime. However, subsequent to the execution of the transfer deed, the petitioner failed to honour such assurance and neglected respondent No.3. The relevant pleadings from the application are extracted hereunder:-

“2. That petitioner was residing with respondent. Respondent started persuading and pressurizing the petitioner to execute Transfer Deed of his land as fully detailed in the head note of the petition and fully described in the Transfer Deed dated 16.02.2018, on the ground that after death many problems of inheritance are faced by the legal heirs and further that possibility of litigation can also be avoided in case of transfer of property during lifetime. Respondent assured the petitioner to take full responsibility of the petitioner for lifetime to provide him

with all the necessities of life, to provide the maintenance including food, clothing, as well as medical care. The respondent by way of using his dominate and undue influence got executed the Transfer Deed dated 16.02.2018, bearing document No.2220 referred above of the property measuring 26 Kanals 02 Marlas 4½ Sarsahis detailed above, in his name. Petitioner was having bonafide belief upon respondent that he will fulfill his moral, legal and social responsibility towards the petitioner but he did not do that. He has deserted and abandoned the petitioner and has failed to provide necessary care and protection despite having legal responsibility to do so.”

13. A conjoint reading of the transfer deed and the application under Section 23 makes it abundantly clear that the twin requirements under Section 23 of the Act of 2007 stand duly satisfied. The existence of a specific condition of maintenance in the transfer deed, coupled with categorical pleadings in the application regarding breach thereof, squarely attracts the mischief of Section 23. Not only this, the oral testimony of Gurmukh Singh, an independent witness, also lends corroboration to the allegations of neglect. He categorically deposed that respondent No.3 sent his son/petitioner abroad after borrowing money, but the petitioner never sent any money from abroad to his aged and ailing father towards his maintenance. Despite extensive cross-examination, his testimony remained unshaken. Notably, the petitioner has failed to produce even a scintilla of evidence to demonstrate that he discharged his obligation of maintenance after execution of the transfer deed.

14. Although the petitioner, in his reply to the application, specifically pleaded that the deed in question was not a transfer without consideration but rather a sale deed executed upon receipt of sale consideration and adjustment of prior transactions, no evidence whatsoever

was adduced to substantiate this plea regarding sale consideration. When this Court queried learned senior counsel for the petitioner as to why, given the positive plea that the transfer of land resulted from payment of sale consideration, not even a single piece of evidence was produced in this regard, learned senior counsel tried to wriggle out of this pleading by submitting that it was a superfluous averment and may be ignored. The relevant part of the petitioner's reply to the application is extracted hereunder:-

"...The aforesaid sale deed/transfer deed was executed in favour of respondent by the petitioner out of his love and affection and also after taking the sale consideration after the adjustment of prior transactions in favour of petitioner by the respondent. The respondent is/was always ready to provide the basic amenities and basic physical needs to the petitioner..."

15. This Court finds no merit in the aforesaid submission. Pleadings are binding and cannot be casually disregarded. Once the petitioner pleaded that the transfer of land was for consideration, the burden rested upon him to prove such payment, which he has conspicuously failed to discharge. The absence of any evidence in this regard not only renders the plea untenable but also undermines the petitioner's assertion of willingness to maintain respondent No.3, particularly in light of the uncontroverted testimony of the independent witness to the effect that not even a single penny was ever paid by the petitioner to respondent No.3 towards maintenance.

16. Insofar as the judgments relied upon by learned senior counsel for the petitioner are concerned, they pertain to different facts and are distinguishable from the present case and, therefore, do not come to the

petitioner’s rescue.

17. In summa, this Court finds no merit in the instant writ petition, which is accordingly **dismissed**.

April 07, 2026
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No