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

CWP-5555-2020

Decided on: 03.02.2026

Shiv Kumar

.... Petitioner

versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARIPresent: Mr. S.S.Duhan, Advocate
for the petitioner.

Mr. Vivek Chauhan, DAG, Haryana.

Mr. Aayush Gupta, Advocate and
Ms. Shalini Singh, Advocate
for respondent No.4.

Kuldeep Tiwari, J. (Oral)

1. Senior citizen has knock the doors of this Court by filing the instant petition under Article 226/227 of the Constitution of India, wherethrough, the legality of order dated 20.08.2021 (Annexure P-3), as passed by Presiding Officer, Tribunal-cum-Sub Divisional Magistrate, Jind - respondent No.3 and order dated 06.12.2021 (Annexure P-5), as passed by Appellate Tribunal-cum-District Magistrate, Jind has been put to challenge, and further for issuance of directions upon 3rd respondent to declare the release deed Nos.3786 dated 21.09.2018, and 3787 dated 21.09.2018 to be void by invoking the provisions of Section 23 of The Maintenance and Welfare of Parents and the Senior Citizens Act, 2007 (hereinafter referred to as 'Act 2007').



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2. Succinctly put, the petitioner filed an application under Section 23 of the Act 2007, for cancelling the release deeds (supra), through which the property in question was transferred in favour of 4th respondent, who is son of the petitioner. The application, thus, contains the allegations to the extent that he has two sons; elder one is residing at Noida, whereas, Anuj (4th respondent) is residing with the present petitioner, who played a fraud and allured him, and got the house in question transferred through release deed and post getting the release deed executed, there was change in his behaviour, and the petitioner was thrown out of the house, and one room of the house was given to him to reside. The house in question is now further transferred in favour of wife of 4th respondent, and the shop, which is within/adjacent to the house, is transferred in favour of 3rd party. The application was considered by learned Tribunal concerned, wherethrough, instead of accepting the prayer of cancellation of release deeds, 4th respondent was held liable to pay Rs.10,000/- per month, as maintenance to the petitioner, and with a further direction that the maintenance amount shall be deposited in the bank account of the senior citizen. Searching for a grievance from the order of learned Tribunal, an appeal under Section 16 of the Act, 2007, was preferred by the petitioner, however, the appeal was dismissed in totality, and hence, the present petition.

3. Learned counsel for the petitioner submits that though there is no recital in the transfer deed of having any condition of maintenance, however, it was specifically pleaded in the application that the respondent son, ensures to maintain the petitioner, but immediately after execution of the release deed, he stopped maintaining the petitioner. He further submits that learned Tribunal



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should have considered the allegations, as alleged in the application, and the other documentary evidence placed on record to substantiate that the transfer was on condition of maintenance. He finally submitted that 4th respondent has now transferred the property to debar the petitioner from his rightful due, which shows his intention, and this act itself is sufficient to invoke the mischief of Section 23 of the Act, 2007. It has also been submitted that though The Maintenance Tribunal through order dated 29.07.2021, fastened the liability upon 4th respondent to pay maintenance to the tune of Rs.10,000/- per month, but till date, he has not complied with the said directions, and nothing towards the maintenance has been paid to the petitioner.

4. Learned counsel for 4th respondent, puts his defence, to the submissions by learned counsel for the petitioner, and draw attention of this Court towards the contents of the application to submit that even if, the allegations levelled in the application are to be taken as a gospel truth, it does not invite the mischief of Section 23 of the Act, 2007. He further submits that there is no recital in the transfer deed, that the transfer is subject to the conditions of maintenance of senior citizen. Nonetheless, there is no efforts made by the senior citizen to lead any evidence before the learned Tribunal to establish that the transfer is made upon the condition of providing adequate maintenance, and fulfil the basic needs of the senior citizen. In the absence of same, well reasoned order does not require any interference. While joining the issue of non-payment of maintenance, he submits that in fact, he has been thrown out of the house in question by the senior citizen, and therefore, maintenance has not been paid.



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5. The submissions of learned counsel for the parties have been heard.

6. In order to appreciate the legality of the order, let's have a glimpse upon the relevant contents of the application and the same are extracted hereinafter:-

“2. That the applicant was the owner of one house No. 378/24, situated at Sharma Nagar, Jind whose area is 40 Sq. yards and one shop M/s. Lahri Mal Ram Swaroop area 21.05 Sq. yards situated at Janta Bazaar, Ghanta Ghar, Near Maharaja Aggarsain Statue. That both the properties were received from the father of the applicant through release deed No. 4237 dated 22.12.2000 of the office Sub-Registrar, Jind.

3. That respondent was residing with the applicant at Jind and elder son of the applicant whose name is Amit, he resides at Noida and all the four daughters of the applicant are married and are living in their matrimonial home and the wife of applicant has already died.

4. That the respondent by fraud, threat and after being lured got the above said house and shop transferred in his name through Release Deed No. 3786 and 3787 dated 21.09.2018 registered Sub-Registrar, Jind.

5. That after getting the above said property in his name the respondent started badly harassing and troubling the applicant. Respondent treated the applicant as servant in the shop and did not give proper food. The behaviour of the respondent with the respondent became very bad.

Thereafter respondent have thrown out the applicant of the shop and only one room was given in the house to reside and on the rest the respondent took his possession. Initially the applicant did not disclose anything to anyone due to fear and apprehension but when excessive happened then told this to his relatives.

6. That when the applicant told this to his relatives then a family panchayat in the present of respectable persons was held in which it was decided that the shop will remain with respondent and house will be given to Amit elder son of applicant. In case the shop and house of the applicant will be given to both of his sons during the lifetime of the applicant then nothing will left with



applicant for earning and residing and his position shall become very pity.”

7. A perusal of contents make it vivid clear that the allegations are that the property was got transferred through threat and by committing fraud. The petitioner has already availed the remedy to test the legality of transfer deed, by filing a civil suit, which is still pending adjudication before the Civil Court concerned. It is not a case where the allegations are that the property was transferred on account of love and affections with the condition of maintaining senior citizen.

8. To analyse the respective versions of the rival parties, it is pertinent to refer to Section 23 of the Act of 2007, which reads thus:

“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.”

9. 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.

10. 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.

11. 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 needs to the transferor, and post the execution of the transfer deed, the transferee fails to keep the promise.

12. 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 needs; and the second is, post execution of the transfer deed, the transferee failed to provide the same.

13. In view of settled law and discussed legal preposition, this Court has no hesitation to hold that the contents of application does not invite the mischief of Section 23 of the Act, 2007.

14. This Court has perused the impugned orders, and does not find any illegality or perversity to interfere with.



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15. So far as the claim of the petitioner, that it is a result of fraud, the apposite remedy to challenge the transfer deeds, by filing a civil suit before the Civil Court, which he has already availed, and the civil suit is stated to have been pending. Now, the issue, which requires consideration of this Court is, as to whether, the petitioner is entitled to maintenance as awarded by the learned Tribunal, the order of the Tribunal has not been assailed, and therefore, has attained finality. 4th respondent is duty bound to pay the maintenance as per the order dated 20.08.2021, which is also upheld by this Court in aforesaid observations. 4th respondent, who is present in Court, through his counsel, informs this Court that he is ready and willing to pay the maintenance but in the equal instalments. With the consent of the parties, 4th respondent is granted eight months time to pay the entire arrears of maintenance to the senior citizen, in eight equal instalments, and each instalment is payable on or before 10th of every month.

16. It goes without saying that in case, 4th respondent fails to adhere to the undertaking given before this Court, with regard to maintenance, this would give rise to fresh cause of action to the senior citizen to invoke the provisions of Act, 2007.

17. In view of above, instant writ petition stands **dismissed**.

03.02.2026
sonia

(KULDEEP TIWARI)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No