



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

LPA-802-2026 (O&M)

Date of Decision : 24-03-2026

HARNEK SINGH

.....Appellant

VERSUS

**DISTRICT MAGISTRATE-CUM-APPELLATE TRIBUNAL, SRI
MUKTSAR SAHIB AND OTHERS**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Harmanpreet Singh Sehgal, Advocate for the appellant.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the order dated 11.02.2026 passed by the learned Single Judge in CWP No. 20190 of 2022, by which the claim of the appellant–senior citizen for reverting the property back to him, which was gifted by him to respondent No.3-Sarabjt Kaur-daughter-in-law of the appellant, was rejected.

2. Learned counsel for the appellant argues that though the appellant–senior citizen has sufficient means to survive and does not require any financial assistance, still, as respondent No. 3 is not residing with the appellant–senior citizen qua the property gifted to respondent No.3, it should be construed that the appellant–senior citizen is not being “maintained” for the purpose of granting the benefit of reversion of property under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the ‘2007 Act’), which fact has not been appreciated by the authorities exercising powers under Section 23 of the 2007 Act as well as by the learned Single Judge. Therefore, the impugned

order dated 11.02.2026 passed by the learned Single Judge may kindly be set aside and the petition filed by the appellant–senior citizen praying for reversion of the property transferred in favour of respondent No.3–daughter-in-law, may kindly be allowed.

3. We have heard the learned counsel for the appellant and gone through the record with his able assistance.

4. It may be noticed that certain facts are undisputed in the present case, that the property was gifted by the appellant-senior citizen to the respondent No.3-daughter-in-law and further, that the appellant-senior citizen is not claiming maintenance and is rather claiming reversion of the property in question back to him under Section 23 of the 2007 Act.

5. Further, during the hearing, learned counsel for the appellant–senior citizen submits before this Court that the appellant has sufficient financial resources to maintain himself, but as respondent No. 3–daughter-in-law is not residing with the appellant–senior citizen, the same fact should be treated as non-maintenance of the appellant–senior citizen, which fact aids the purpose of reversion of the property back to the appellant–senior citizen under Section 23 of the 2007 Act. The learned Single Judge, after examining all the facts, including the relevant provisions of law, rejected the claim of the appellant–senior citizen vide the impugned order.

6. Even otherwise, Section 23 of the 2007 Act as interpreted by the Hon’ble Supreme Court of India in number of cases has to be looked into so as to find out whether, the ingredients required for cancellation of transfer deed is made out or not.

7. Section 23 of the 2007 Act is as under:-

“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.”

8. A bare perusal of Section 23 of the 2007 Act would show that in order to avail benefit of Section 23 of the 2007 Act, so as to revert the property to transferor, i.e. the senior citizen, firstly, there has to be a condition stipulated in transfer deed that the transferee will provide basic amenities to the transferor and, secondly, that there is a refusal to provide such amenities to the transferor at the hands of transferee.

9. Furthermore, in order to adjudicate the matter in hand, reliance is to be placed upon the judgment of the Supreme Court in ***Civil Appeal No.174 of 2021 tiled as Sudesh Chhikara Vs. Ramti Devi and ors. decided on 06.12.2022***, wherein it has been held that in order to attract the provision of Section 23 of the 2007 Act so as to revert the property to Senior Citizen, the same has to be pleaded and it has to be further proved that the transferee is not maintaining the transferor even though a condition to that effect has been stipulated in transfer deed, and to avail the benefit of Section 23 of the

2007 Act, the twin conditions of Section 23 as have been stipulated hereinabove, need to be satisfied. Relevant Paragraph Nos.14, 15 and 17 of the said judgment are as under:-

“14. Careful perusal of the petition under Section 23 filed by respondent no.1 shows that the transferees (the daughters of respondent no.1) would provide the basic amenities and basic physical needs to respondent no. 1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor senior citizen is sine qua non for applicability of sub-section (1) of Section 23. In the present case, as stated earlier, it is not even pleaded by respondent no.1 that the release deed was executed subject to such a condition.

15. We have perused the counter affidavit filed by respondent no.1. Even in the counter, it is not pleaded that the release was subject to such a condition. It is merely pleaded that the appellant had no intention to take care of her mother. Thus, the order of the Maintenance Tribunal cannot be sustained as the twin conditions incorporated in sub-Section (1) of Section 23 were not satisfied. Unfortunately, the High Court has not adverted to the merits of the case at all.

17. Hence, for the reasons recorded above, the appeal is allowed. The impugned order dated 22nd May 2018 passed by the Maintenance Tribunal as well as the order dated 21st May 2019 passed by the High Court are hereby set aside and the petition filed by respondent no.1 under Section 23 of the 2007 Act stands dismissed. There shall be no order as to costs.”

10. On being asked to point out and show as to how the said averment, that the senior citizen is not being taken care of by the transferee is sought to be proved, learned counsel for the appellant-senior citizen has not been able to show even a single instance as to how the said requirement of Section 23 of the 2007 Act has not been complied with by the transferor. No such evidence is on record.

11. As per the judgment of Hon’ble Supreme Court in ***Civil Appeal No.174 of 2021 titled as “Sudesh Chhikara Vs. Ramti Devi and ors.”***, the Hon’ble Supreme Court had held that the allegation of non-maintenance of the senior citizen, for the purpose of cancellation of transferred property in

question, is to be specifically averred and proved by leading cogent evidence at the hands of the senior citizen concerned. It may be noticed that no such evidence has been led by the appellant-senior citizen before the authorities concerned that he was not being maintained or that maintenance was required to be provided at the hands of the transferee and the same has not been even brought on record before this Court.

12. Before proceeding further, the question which has to be addressed is whether or not, the said relief can be sought against daughter-in-law by the senior citizen. The same can be answered keeping in view the definition of 'children' given under Section 2(a) of 2007 Act, which is as under:-

“2. (a) “children” includes son, daughter, grandson and grand-daughter but does not include a minor;”

13. A bare perusal of the same would show that daughter-in-law is not included in the definition of the children against whom the relief can be claimed by the senior citizen.

14. Further, as per the definition of 'relative' under Section 2(g) of 2007 Act, which is as under:-

“2. (g) “relative” means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;”

15. A bare perusal of the above would show that the “relative” will only mean a legal heir of the childless senior citizen, who is not minor and is in the possession of the senior citizen's property or will inherit it after the death of the senior citizen. It is a conceded fact that the daughter-in-law is not covered under the definition of relative as well.

16. The next question which arises for consideration is whether or not the benefit can be granted by the concerned authorities under 2007 Act, the relief claimed by the senior citizen is qua the eviction of daughter-in-law alone. It may be noticed that the benefit under the 2007 Act can only be granted keeping in view the provisions of 2007 Act and as, the daughter-in-law is not covered under the definition of “children” or “relative” under the relevant provisions produced hereinbefore, the senior citizen cannot approach this Court seeking relief exclusively against the daughter-in-law especially, when senior citizen has not given any property to the daughter-in-law exclusively. Hence, the learned Single Judge has rightly noticed the said aspect while upholding the order dated 23.04.2021 passed by the learned Maintenance Tribunal, by which the senior citizen was denied the relief.

17. Further, the Hon’ble Supreme Court of India in ***Civil Appeal No.3822 of 2020 titled “Smt. S. Vanitha Vs.The Deputy Commissioner, Bengaluru Urban District and ors.”, decided on 15.12.2020***, has described the rights of a daughter-in-law to reside in the matrimonial house and the courts have been directed to balance the rights of the senior citizens with daughter-in-law. Once, under the Protection of Women from Domestic Violence Act, 2005 (herein after referred to as ‘PWDV Act, 2005’), a right has been given to the daughter-in-law to continue to occupy the matrimonial home, probably, keeping in view the relevant provisions of the PWDV Act, 2005, the daughter-in-law has not been included in the definition of “children” while enacting 2007 Act so that the said remedy may not be sought against her. The relevant paragraph of the judgment passed in ***S. Vanitha ‘s case (Surpa)*** is as under:-

“The above extract indicates that a significant object of the legislation is to provide for and recognize the rights of women to secure housing and to recognize the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act 2005, would defeat the object and purpose which the Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their PART E 30 children or relatives. Equally, the purpose of the PWDV Act 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007.”

18. Learned counsel for the appellant has not been able to dispute that keeping in view the judgment passed in **S. Vanitha ‘s case (Surpa)**, the claim raised against the daughter-in-law independently, is not maintainable.

19. Keeping in view the totality of the circumstances, the impugned order dated 11.02.2026 passed by the learned Single Judge has not been proved to be perverse either on facts or on law, thus, no ground is made out for any interference by this Court.

20. Present appeal stands dismissed.

21. Pending miscellaneous applications, if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

24-03-2026
Sapna Goyal

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No