



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

**CWP-8649 of 2023 (O&M)
Date of decision: 24.02.2026**

Jagdish and another

.... Petitioners

Vs.

**Maintenance Tribunal (Senior Citizen) Sub Division,
Rohtak and others**

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. G.C. Shahpur, Advocate,
for the petitioner.

Mr. Bhupender Singh, Additional Advocate General, Haryana.

Mr. Ravi Kadian, Advocate,
for respondent No.3.

KULDEEP TIWARI, J (Oral)

1. The senior citizen (respondent No.3), who is the real brother of petitioner No.1, successfully invoked the jurisdiction of the learned Maintenance Tribunal, Rohtak, to get the transfer deed dated 19.09.2019, cancelled, through which the land measuring 19 marlas and one *sarsai* was transferred by him in favour of petitioner No.1. The learned Tribunal concerned through its order dated 27.01.2023 (Annexure P-3) allowed the application preferred by respondent No.3. The petitioners preferred an appeal on the ground that the contentions raised in the application moved by respondent No.3, do not attract the mischief of Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (for short, 'the Act of 2007'). The learned Appellate Tribunal concerned, vide order dated 29.03.2023 (Annexure P-4) dismissed the appeal, which propelled the petitioners to approach this Court to challenge the legality of the impugned orders (*supra*).

2. The learned counsel for the petitioners vehemently submits that neither is there any condition in the transfer deed to maintain the senior citizen, nor do the allegations in the application attract the mischief of



Section 23 of the Act of 2007, as it is alleged that the transfer deed was got executed by way of fraud. He further submits that this issue was very well raised before the learned Maintenance Tribunal concerned, but the same was not decided in its right earnest.

3. On the other hand, learned counsel for respondent No.3 submits that he is an unmarried person who was earlier living with his real brother (petitioner No.1), and he approached the office of the Registrar, on a misrepresentation made by him, that he wants to execute a Will only. However, by playing fraud, transfer deed dated 19.09.2019 was got executed. After execution of the transfer deed, the petitioners threw out the respondent No. 3 (a senior citizen) from the house and refused to maintain him. Therefore, the senior citizen has rightly invoked the jurisdiction of the learned Maintenance Tribunal to recover his rightful dues.

3. In order to appreciate the legality of the impugned order, let us have a glimpse of the transfer deed. In the transfer deed, there is no condition requiring the transferee to maintain the senior citizen. In the absence of such a condition, the obligation is upon the senior citizen to plead and establish before the learned Maintenance Tribunal concerned, by leading cogent evidence, that the transfer was subject to the condition and that the beneficiary failed to adhere to it by providing adequate maintenance or taking care of the basic physical needs.

4. Before proceeding further, let us have a glimpse of Section 23 of the Act of 2007: -

***“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.”

5. On the envelope of the above settled legal proposition, this Court has examined the contents of the application, the relevant part of which is extracted hereinafter:

“5. That due to his advanced age and being unmarried, the petitioner went to the Tehsil office in Sampla on 19.09.2019 with Respondent No. 1 to get a Will prepared regarding his movable and immovable property. Respondent No. 1, by representing the documents as a Will, had the petitioner affix his thumb impressions on them. The petitioner, trusting his brother, affixed his thumb impressions without any questions.

6 & 7.

xx

xx

xx

8. That when the petitioner thought of getting his Will cancelled and made inquiries about his land from the Halka Patwari, it was revealed that on 19.09.2019, Respondent No. 1, instead of getting a Will prepared, had executed a Transfer Deed. This document is registered as Document No. 1825 dated 19.09.2019 with the Sub-Registrar, Sampla, for which Mutation No. 7274 has been sanctioned. The document is attached herewith.

9. That Respondent No. 1, as part of a conspiracy and with the intention to usurp the petitioner's land, further transferred the land obtained through the fraudulent Transfer Deed to the name of Respondent No. 2 via another Transfer Deed, which



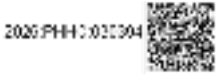
is registered as Document No. 307 dated 12.06.2020 with the Sub-Registrar, Sampla, for which Mutation No. 7634 has been sanctioned. The document is attached herewith.

10. That the petitioner never intended to transfer his land to anyone during his lifetime. Respondent No. 1, by committing fraud and forgery, got the petitioner's land transferred to his own name. Subsequently, Respondent No. 1 transferred the fraudulently obtained land to his wife, Respondent No. 2. The respondents have committed a grave fraud against the petitioner, due to which it has now become difficult for the petitioner to even arrange for his meals, and he is now compelled to live in an old-age home.

11. That the respondents have gotten the petitioner's land transferred to their names by committing fraud and forgery. That the Transfer Deed executed fraudulently is not binding on the petitioner. Both Transfer Deeds are illegal and void. They cannot be forcibly imposed upon the petitioner.”

6. From the perusal of the application, it clearly spells out that it is a case of a senior citizen that the transfer was affected by playing fraud upon him. It has never been the case of respondent No.3 that he executed the transfer deed with his own free Will, out of love and affection, with the condition that the beneficiary would maintain him. Rather, it is alleged that the transfer is the result of fraud. This aspect has not been considered by the learned Maintenance Tribunal concerned, as to whether, in such circumstances, the mischief of Section 23 of the Act of 2007 can be invoked or not. Therefore, this Court finds that the impugned orders do not pass the test of legality and require interference. Accordingly, the impugned orders dated 27.01.2023 (Annexure P-3) and 29.03.2023 (Annexure P-4) are **set aside**.

7. Now, the second issue that arises for consideration, is whether, the petitioners, who are enjoying the property of the senior citizen, are under an obligation to maintain the senior citizen or not?



8. At this stage, learned counsel for the petitioners submits that petitioner No.1 is always ready and willing to maintain his unmarried brother (senior citizen).

9. In view of the above, and considering the size of land, which was transferred in favour of the petitioner No.1, this Court is of the considered view that, in the interest of justice, and to maintain the balance of equity, the petitioner No.1 is bound to pay Rs. 5,000/- per month to respondent No.3, till his lifetime. He shall deposit the maintenance amount before the 10th of every month, in the hereafter extracted bank account of respondent No.3.

**Mr. Jit Singh s/o Sh. Risal Singh,
A/c No.31990218667
IFSC : SBIN0002361
State Bank of India,
Branch Ismaila (Rohtak)**

10. **Disposed of**, accordingly.

**(KULDEEP TIWARI)
JUDGE**

24.02.2026
deepak

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No