

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

102

CWP-10003-2020 (O&M)

Date of Decision : January 12, 2026

GARGI VERMA

-PETITIONER

V/S

DISTRICT MAGISTRATE, AMBALA AND ANR.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Jagram Singh Cooner, Advocate
for the petitioner.

Mr. Bhupender Singh, Addl. A.G., Haryana.

Mr. Dhruv Gupta, Advocate, and
Ms. Titiksha, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. Through instituting the present writ petition, the petitioner impugns the order dated 28.02.2020, whereby the respondent No.1- District Magistrate, Ambala, has directed her eviction from the house in question.

2. Succinctly stated, the respondent No.2, who is the father-in-law of the petitioner, filed an application under Section 22(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act of 2007"), alleging that the marriage between the petitioner and his son was solemnized on 25.11.2013. Subsequent to the marriage, his son left for Malaysia to earn his livelihood, during which period the petitioner lodged a frivolous complaint against them with the police. It was further alleged that the son of the respondent

No.2 instituted divorce proceedings before the Family Court, Ambala, wherein an *ex parte* decree of divorce was granted. The respondent No.2 further alleged that on 05.11.2018, while he was away at his daughter's residence in Agra, the petitioner forcibly broke open the lock of his house and stole jewellery and cash. It was also alleged that the petitioner threatened to falsely implicate them in cases, forcibly occupied the house in question, and subjected them to harassment on account of matrimonial discord between her and the son of the respondent No.2. On the basis of these allegations, the respondent No.2 sought eviction of the petitioner from the house in question.

3. Consequent upon filing of the application (*supra*), the District Magistrate called for a report from the Sub-Divisional Officer (Civil), Ambala, regarding the ownership and possession of the house in question. The S.D.O., vide report dated 29.11.2019, reported that the house comprised two rooms, a drawing room, a store, a lobby, two bathrooms and a kitchen, out of which one room was in possession of the petitioner, whereas the remaining portion was stated to be in possession of the respondent No.2.

4. Although the petitioner caused appearance before the District Magistrate and filed her response, she was subsequently proceeded against *ex parte* on 28.02.2020, and on the same date, the impugned eviction order came to be passed against her.

5. Learned counsel for the petitioner contends that even though the petitioner was proceeded against *ex parte*, the District Magistrate was nonetheless duty-bound to examine and adjudicate upon her competing right of residence in the matrimonial home, which exercise was not undertaken. It is further submitted that notwithstanding the grant of an *ex parte* decree of

divorce by the Family Court, the petitioner has already filed an application seeking quashing of the said *ex parte* decree, which is pending consideration.

6. *Per contra*, learned counsel for the respondent No.2 submits that proceedings earlier initiated by the petitioner under the Protection of Women from Domestic Violence Act, 2005, as well as under Section 125 Cr.P.C., already stand dismissed for non-prosecution. It is further contended that in view of the divorce granted between the petitioner and the son of the respondent No.2, the relationship of father-in-law and daughter-in-law no longer subsists.

7. This Court has heard learned counsel for the parties and has perused the record.

8. Upon due consideration, this Court is of the view that the District Magistrate, Ambala, passed the impugned eviction order without undertaking any evaluation of the petitioner's right of residence in the matrimonial home. The record further reveals that the petitioner was proceeded against *ex parte* on 28.02.2020 and the impugned eviction order was passed on the very same day. In these circumstances, this Court is of the considered opinion that the impugned eviction order cannot be sustained in the eyes of law. Accordingly, the **impugned order is set aside and the matter is remanded for fresh adjudication in accordance with law.**

9. It is also pertinent to record here that the application filed by the respondent No.2 under Section 22(2) is not maintainable before the District Magistrate, as such applications lie before the Maintenance Tribunal presided over by the Sub-Divisional Magistrate. The issue is no longer *res integra*, as it has been consistently held that applications

seeking eviction orders under the Act of 2007 are required to be filed before the Maintenance Tribunal-cum-Sub-Divisional Magistrate and not before the Appellate Tribunal-cum-District Magistrate. A similar issue was considered by this Court in CWP-22501-2021, which was disposed of on 27.10.2025 with the following observations:

“5. This Court has heard the submissions made by the learned counsel for the parties concerned, and has also examined the issue. In Gurdial Singh (supra) case, the Coordinate Bench of this Court, has held that since the notification has been issued by the State of Punjab, where through, the powers have been bestowed with the Maintenance Tribunal, to adjudicate the application seeking eviction. The relevant extract from the said judgment is extracted hereinafter:-

“4. A perusal of the above instructions would show that in view of the judgment passed by the Hon'ble Supreme Court and by this Court, it has been decided by the State of Punjab that the Maintenance Tribunal can pass the eviction orders in view of the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act as there is no bar regarding the same but the District Magistrate cannot pass the eviction orders on account of the judgment dated 23.01.2020 passed by a Coordinate Bench in CWP-4744-2018 titled 'Simrat Randhawa Vs. State of Punjab'.

5. Learned counsel for the petitioner has submitted that in the present case, he had filed an application before the Additional Deputy Commissioner, Patiala in pursuance of the District Magistrate having delegated its powers under Section 22 to the Additional Deputy Commissioner, Patiala and thus, he states that he may be permitted to withdraw the said application with liberty to file a fresh application before the Maintenance Tribunal in accordance with the latest instructions issued by the State of Punjab.

6. Learned counsel appearing for respondent No.3 and 4

has submitted that in case any such application is filed, respondents No.3 and 4 be permitted to raise all the pleas which are available to them, in accordance with law.

7. Keeping in view the above said facts and circumstances, the present writ petition is disposed of with the following directions:-

(i) It would be open to the petitioner to file an application for eviction in addition to other pleas that he might wish to raise before the Maintenance Tribunal.

(ii) The Maintenance Tribunal would decide the same after hearing all the parties concerned and after giving due opportunity to file reply to respondents No.3 and 4.

(iii) The Maintenance Tribunal would also take into consideration the instructions dated 18.12.2023 passed by the State of Punjab and decide the matter, in accordance with law.

(iv) The filing of the earlier petition by the Senior Citizen before the District Magistrate/ADA and the order passed thereon by the said authority, would not come in the way of the petitioner instituting the fresh proceedings before the Maintenance Tribunal in view of the instructions dated 18.12.2023 of Government of Punjab. The above said earlier petition would be deemed to have been withdrawn, with liberty to file a fresh petition, as detailed in the present order.

(v) In case any such petition is filed by the Senior Citizen, the Maintenance Tribunal is requested to decide the same, as expeditiously as possible.”

6. In view of the above propositions laid down by Coordinate Bench of this Court, the issue, as involved in the instant writ petition, is also squarely covered therein. Therefore, the impugned order is set aside, and the Deputy Commissioner concerned, is directed to transfer the original application to the learned Maintenance Tribunal concerned, and upon such transfer, the Sub Divisional Magistrate, concerned, after giving due opportunity of hearing to both the parties, shall decide the

application afresh, in accordance with the provisions of the Act of 2007.”

10. Consequently, the District Magistrate, Ambala, is directed to forthwith transmit the original application under Section 22(2) to the Sub-Divisional Magistrate-cum-Presiding Officer, Maintenance Tribunal concerned. The parties are directed to appear before the Maintenance Tribunal on 27.01.2026 at 11:00 a.m. The Maintenance Tribunal shall endeavour to decide the application within a period of four months from the date of appearance of the parties, strictly in accordance with the provisions of the Act of 2007 and the applicable Rules, after affording due and fair opportunity of hearing to the parties and permitting them to lead evidence, if any.

11. **Disposed of accordingly.**

12. Pending application(s) also stand disposed of accordingly.

January 12, 2026
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(KULDEEP TIWARI)
JUDGE

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