

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

104

CWP-10150-2026

Date of Decision : April 07, 2026

SURENDER ALIAS SURESH

-PETITIONER

V/S

**DISTRICT MAGISTRATE CUM CHAIRMAN, APPELLATE
TRIBUNAL, GURGAON AND ORS.**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rajesh Kumar Sawariya, Advocate
for the petitioner.

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

KULDEEP TIWARI, J. (ORAL)

1. Through the present writ petition, the petitioner, a senior citizen, challenges the order dated 06.12.2023 passed by the respondent No.2- Maintenance Tribunal, whereby his application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) was dismissed. Further, the petitioner challenges the order dated 23.12.2025 passed by the respondent No.1- Appellate Tribunal, whereby his statutory appeal under Section 16 of the Act of 2007 was likewise dismissed.

2. Learned counsel for the petitioner contends that, subsequent to the execution of the release deeds in question, the transferee/respondent No.3 refused to provide maintenance or basic amenities to the transferor/petitioner and his wife. It is submitted that all ingredients requisite for invoking Section 23 of the Act of 2007 were present, yet the Tribunal failed to exercise its jurisdiction appropriately. It is further submitted that once it is

established that the respondent No.3 refused to maintain or provide basic necessities to the petitioner, such refusal triggers the deeming provision under Section 23(1), presuming the deeds resulted from fraud or misrepresentation.

3. No other arguments have been raised by learned counsel for the petitioner.

4. Before embarking upon the process of gauging the merits of submissions advanced by learned counsel for the petitioner and examining the legality of the impugned orders, it is deemed imperative to initially capture a concise factual backdrop of the case.

5. The petitioner filed an application under Section 23 before the Maintenance Tribunal, seeking a declaration that Release Deed No.7888 dated 31.03.2006 and Release Deed No.3569 dated 09.12.2010, executed in favour of his brother (respondent No.3), are illegal, null and void. The petitioner contended that he executed the release deeds based on the oral assurance of the respondent No.3 to provide maintenance and basic physical needs to him and his wife in old age. However, post execution, the respondent No.3 failed to fulfill this assurance.

6. The application was contested by the respondent No.3 and he brought on record certain additional facts. It was submitted that Release Deed No.7888 dated 31.03.2006 was executed in favour of the respondent No.3 not solely by the petitioner, but also by his sister, Jai Mala, as a co-executant. Similarly, Release Deed No.3569 dated 09.12.2010 was executed jointly by the petitioner and his sister in favour of both respondent No.3 and another brother, Rakesh Kumar, who was not impleaded as a party in the application. It was further submitted that the petitioner has three children,

who had previously assailed the legality of the release deeds by filing Civil Suit No.73 of 2015 in collusion with the petitioner, who not only made a statement on 10.11.2017 before the civil court indicating “No Objection” regarding *status quo*, but also opted to proceed *ex parte* in the proceedings. Despite these efforts, the civil suit was dismissed vide order dated 10.02.2023. The dismissal of the civil suit thus formed the foundation for the filing of the application under Section 23. It was also submitted that the petitioner was not even a senior citizen at the time of executing the release deeds, being 53 and 57 years old, respectively.

7. Considering the material brought on record and hearing learned counsel for the parties, the Maintenance Tribunal dismissed the petitioner’s application under Section 23 of the Act of 2007 vide order dated 06.12.2023. The statutory appeal preferred by the petitioner under Section 16 of the Act of 2007 was also dismissed vide order dated 23.12.2025. Therefore, the petitioner has knocked on the doors of this Court by filing the present writ petition.

8. This Court has heard learned counsel for the parties and made a studied survey of the record.

9. Notably, the first Release Deed No.7888 dated 31.03.2006 predates the Act of 2007 and is therefore outside its purview. Insofar as the second Release Deed No.3569 dated 09.12.2010 is concerned, it was executed by the petitioner in the 57th year of his life jointly with his sister, not solely in favor of the respondent No.3 but also in favor of another brother, Rakesh Kumar, who was not impleaded in the application under Section 23. Interestingly, the co-executant of this release deed did not join the petitioner to seek cancellation thereof, nor was the co-beneficiary of the

said release deed, namely, Rakesh Kumar, impleaded in the application under Section 23, nor was any reason, much less plausible, spelt out in the application for his non-impleadment.

10. Although learned counsel for the petitioner submits that Rakesh Kumar has since passed away, be that as it may, it was incumbent upon the petitioner to establish all the ingredients necessary for the Maintenance Tribunal to exercise jurisdiction under Section 23 of the Act of 2007. There is no wrangle between the contesting litigants that the Release Deeds in question contain no recital or stipulation making the transfer conditional upon the respondent No.3 maintaining or providing for the petitioner. Further, while it is acknowledged that, in certain circumstances, an application under Section 23 may be maintainable even in the absence of an express condition, the facts and circumstances of the present case do not warrant the invocation of Section 23. A holistic reading of the petitioner's application and the release deeds in question makes it evident that the requisite ingredients for the Maintenance Tribunal to exercise its powers under Section 23 were absent. In the absence of any recorded condition regarding maintenance, the petitioner was obliged to plead and adduce evidence establishing the existence of such a condition.

11. Furthermore, the petitioner has three children, who had already unsuccessfully challenged the legality of the release deeds through a civil suit, wherein the petitioner was also impleaded as a party. From the facts narrated above, it is evident that the civil suit was filed collusively by the petitioner through his children. Moreover, the petitioner has offered no explanation as to why his own children have failed to provide maintenance or basic physical needs to him and his wife. All these facts clearly

demonstrate that the application under Section 23 of the Act of 2007 was, in substance, an attempt to resolve a property dispute between two brothers, namely the petitioner and respondent No.3, under the guise of the provisions of the Act of 2007, amounting to an abuse of the process of law and misuse of the said enactment.

12. Consequently, this Court finds no merit in the present writ petition, which is accordingly **dismissed**.

April 07, 2026
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(KULDEEP TIWARI)
JUDGE

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