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

CWP-16113-2024Date of Decision : **27.04.2026****MOHINDER SINGH**

.....Petitioner

VERSUS

**DISTRICT MAGISTRATE CUM APPELLATE TRIBUNAL
JALANDHAR AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Krishan Sehajpal, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, Addl.A.G., Punjab.

Mr. Saurab Sharma, Advocate,
for respondents no.3 and 4.

KULDEEP TIWARI, J.(Oral)

1. The petitioner, who is a senior citizen, by filing an application under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007'), sought cancellation of three transfer deeds bearing documents Nos.: (i) 325, dated 14.06.2006, ii) 1364 dated, 19.02.2007, (iii) 1617, dated 11.01.2012.

2. Through, the above transferred deeds, agricultural lands were transferred in favour of respondent no.3 and 4, who are the grand-son,

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and son respectively, of the petitioner. The learned Maintenance Tribunal, vide order dated 09.11.2022 (Annexure P-1), declined the aforesaid application, and the first two transfer deeds (No.325, dated 14.06.2006, and No.1364 dated, 19.02.2007) were cancelled on the ground that these were executed prior to the Act of 2007 came into force, whereas, the third transfer deed (No.1617, dated 11.01.2012) was declined to be cancelled, on the ground that it does not carry any condition of maintaining the senior citizen. The statutory appeal preferred by the petitioner against the order (*supra*), also did not fetch any fruit, which was also dismissed, vide order dated 30.01.2024 (Annexure P-3). Both these orders are put to challenge before this Court, through the instant writ petition, as cast under Article 226/227 of the Constitution of India.

3. Learned counsel for the petitioner, fairly, concedes that the first two transfer deeds, cannot be sought to be cancelled by invoking Section 23 of the Act of 2007, as these were executed prior to the enforcement of the said Act. Therefore, he confines his arguments with regard to the third transfer deed only i.e. Deed No.1617, dated 11.01.2012.

4. By placing reliance upon a judgement passed by a co-ordinate Bench of this Court in '**Tilak Raj vs. State of UT, Chandigarh and others**' (CWP-414-2025, decided on 13.01.2025, which has also been tested in LPA-1012-2025 by the Division Bench, he submits that there may not be a necessity of mentioning of conditions of maintenance

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in the transfer deed. A senior citizen can very well raise this plea by filing an application, and by leading some cogent evidence to establish that the transfer deed was subject to the condition of maintenance of the senior citizen. In the instant case, the learned Tribunal concerned, in a mechanical manner, without giving any opportunity to the petitioner to lead evidence, has proceeded to dismiss the original application in most perfunctory manner, even though there were specific averments in the said application that the said transfer deed (Deed No.1617, dated 11.01.2012), was subject to the condition of providing maintenance.

5. Learned counsel for respondents no.3 and 4, strongly, opposes the submission, as made by learned counsel for the petitioner, and joined the issue on merits.

6. He submits that respondent no.4, has also gifted a house to his father (petitioner), however, he fairly concedes, the *ratio*, as laid down by the Division Bench of this Court in the judgment (*supra*).

7. This Court has heard the rival submissions, of learned counsel for the parties concerned, and has also examined the impugned orders.

8. Upon a meticulous examination of the impugned orders, this Court finds that, insofar as the validity of third transfer deed i.e. Deed No.1617, dated 11.01.2012, is concerned, it is required to be adjudicated in view of Section 23 of the Act of 2007. Though, admittedly, there is no recital of any condition of maintenance in the said transfer deed, but it is

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always open for the petitioner-senior citizen, to lead evidence, and to establish that such condition existed at the time of its execution. However, the petitioner was never given any opportunity to lead evidence by the learned Maintenance Tribunal. In absence of such exercise, the impugned order dated 09.11.2022, needs to be interfered by this Court, only to the extent of third transfer deed i.e. Deed No.1617, dated 11.01.2012, and accordingly, the same is **set aside**. Since, learned Appellate Authority, has also failed to appreciate this legal aspect in appeal, therefore, the appellate order dated 30.01.2024, is also **set aside**.

9. Consequently, the matter is **remanded** to the learned Maintenance Tribunal concerned, for a fresh decision, only with regard to the third transfer deed, i.e. Deed No.1617, dated 11.01.2012, as to whether, the same satisfies the test of legality, in view of Section 23 of the Act of 2007, or not?

10. Considering the age of the petitioner, who is presently 82 years old, a positive *mandamus* is passed upon, the learned Maintenance Tribunal concerned, to decide the original application within a period of six months from the date of receipt of a certified copy of this order, after giving sufficient opportunity of hearing to the parties concerned.

11. All the parties herein, are directed to appear before the learned Maintenance Tribunal concerned, on 12.05.2026 at 11.00 AM.

12. It goes without saying that the learned Maintenance Tribunal concerned, shall examine the validity of the transfer deed in question



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(Deed No.1617, dated 11.01.2012), independently, without being influenced by any observation made hereinabove, by this Court.

13. **Disposed of** accordingly.
14. All pending application(s), if any, also stand **disposed** of accordingly.

April 27, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. :

Whether Reportable. :

Yes/No

Yes/No