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

CWP-11265-2026

Date of Decision : **29.04.2026**

ILYAS

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sanjeev Kumar Bawa, Advocate,
for the petitioner.

Mr. Bhupender Singh, Addl.AG, Haryana
for respondents no. 1 to 3.

Mr. Ram Singh Chaudhary, Advocate and
Mr. Pulkit Mago, Advocate,
for respondents no.4 (i)(a) to (f) and 4(ii).

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Article 226/227 of the Constitution of India, the legality of the order dated 16.02.2026 (Annexure P-1), passed by the learned Appellate Authority, constituted under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007'), has been challenged, whereby, instead of deciding the appeal on merits, the same has been disposed of, on the ground that same stands *abated* on account of demise of the senior citizen (Chhuttali).

2. The learned Maintenance Tribunal concerned, had set aside the transfer deed executed in favour of the petitioner vide order

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30.11.2023 (Annexure P-2), upon an application preferred by the senior citizen (Chhuttali, since deceased). The said order was put to challenge by the petitioner before the learned Appellate Authority, which, without evaluating the legal issue, as to whether, the cause of action still survives, and right to *sue* exists *qua* the petitioner, in a mechanical manner, has declared the appeal *abated*, vide impugned order.

3. This Court, vide order dated 16.04.2026, this Court had passed the hereinabove extracted order:-

“Learned counsel for the petitioner *inter alia* submits that the demise of the senior citizen has occurred, after the decision rendered by the learned Maintenance Tribunal concerned, wherethrough, the transfer deed in question was cancelled, therefore, the appeal preferred by the petitioner does not stand *abated*, as has been ordered by the learned Appellate Tribunal vide order dated 16.02.2026 (Annexure P-1).

Notice of motion.

Mr. Bhupender Singh, Addl.AG, Haryana, accepts notice on behalf of respondents no.1 to 3, and waives service.

He submits that since, the impugned order is a *quasi judicial* order, the State is not required to file any response to the petition. Therefore, at this stage, the State waives off its right to file reply, however, with liberty to file reply, if necessity, arises in future.

Notice upon respondent no.4(i)(a) to (f) and 4(ii), be issued, on furnishing the requisite process fee by the petitioner, returnable on 24.04.2026.

Dasti as well.

To be shown in the urgent list.”

4. Learned State counsel, as well as learned counsel for respondents no.4 (i)(a) to (f) and 4(ii), are unable to refute the factum that the learned Appellate Authority erred in law by not considering the legal



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issue, as to whether, petitioner has continuous right to *sue* and the cause of action still survives in his favour, or not?

5. In view of the above, this Court finds that the impugned order, does not pass the test of legality, therefore, the same is hereby, **set aside**.

6. The matter is **remanded** to the learned Appellate Tribunal concerned, to decide the appeal on its own merits, after affording all the affected parties an opportunity of hearing, within a period of four months from the date of receipt of a certified copy of this order.

7. The parties are directed to appear before the learned Appellate Tribunal concerned on 21.05.2026 at 11.00 AM.

8. It goes without saying that anything observed hereinabove, would not have any bearing upon the order of the learned Appellate Tribunal.

9. **Disposed of** accordingly.

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

April 29, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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