

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

103

CWP-13661-2022

Date of Decision : February 17, 2026

SIMMI RANI

-PETITIONER

V/S

DISTRICT MAGISTRATE, PATIALA AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. J.S. Moudgill, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

Mr. Vijay Sharma, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner assails the order dated 06.05.2022, whereby the Additional District Magistrate, Patiala, on a petition filed by the respondent No.2 (father-in-law of the petitioner and father of proforma respondent No.3) under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the “Act of 2007”), has directed eviction of the petitioner and her husband (proforma respondent No.3) from the house in question.

2. Succinctly stated, the respondent No.2 preferred a petition under Section 22 of the Act of 2007 seeking eviction of the petitioner and her husband, on the averments that, he is the owner of the house in question and is suffering from cancer. It was alleged that the petitioner and her

husband had been pressurizing him to transfer the house in their favour and, upon his refusal, subjected him and his wife (since deceased) to harassment, including physical assault. It was further pleaded that although certain complaints were lodged by the respondent No.2 and the matter was, at one stage, settled, the acts of harassment resumed after a few months.

3. The petition was contested only by the petitioner by filing a written reply. It was averred that matrimonial discord subsists between the petitioner and her husband, and the eviction proceedings were initiated by the respondent No.2 at the behest of the petitioner's husband. The petitioner further alleged that her husband used to harass her at the instigation of the respondent No.2, and the eviction petition was the result of their collusion. It was also pleaded that a substantial portion of the house is in possession of the respondent No.2, and the petitioner is residing in a single room situated in the rear portion thereof.

4. Although the petitioner's husband caused appearance before the Tribunal on two occasions, he subsequently failed to appear. Likewise, counsel representing the petitioner before the Tribunal did not appear on the relevant date, culminating in the passing of the impugned eviction order.

5. Assailing the impugned order, learned counsel for the petitioner advances a two-fold submission. Firstly, it is contended that the impugned order has been passed by an authority lacking statutory jurisdiction and, on this ground alone, is liable to be set aside. It is submitted that, post the drawing of the verdict dated 23.01.2020 by a Co-ordinate Bench of this Court in ***CWP-4744-2018, titled "Simrat Randhawa Vs. State of Punjab"***, the eviction petition (*supra*) ought to have been adjudicated by the

Maintenance Tribunal-cum-Sub-Divisional Magistrate, and not by the Appellate Tribunal-cum-Additional District Magistrate.

6. Secondly, it is contended that under the guise of proceedings under the Act of 2007, initiated at the instance of the petitioner's husband, a purely matrimonial dispute has been sought to be resolved by effecting the petitioner's eviction from her shared household. It is further contended that the issue as to whether eviction proceedings can be initiated against a daughter-in-law under the provisions of the Act of 2007 stands conclusively answered in the negative by a Division Bench of this Court in ***LPA-701-2018 (Babu Lal Sharma vs. Sushila Devi and others)***, decided on ***15.12.2025***, and, therefore, the eviction proceedings initiated against the petitioner are wholly untenable.

7. *Per contra*, learned counsel for the respondent No.2 defends the impugned order and submits that the respondent No.2, being afflicted with cancer, requires constant care and medical attention, which is being provided by his daughter. It is contended that the petitioner not only neglected respondent No.2, but also created impediments in the care being extended to him by his daughter, thereby necessitating the eviction order in his welfare. It is further submitted that the respondent No.2 is the undisputed owner of the house in question, and is entitled to seek eviction of the petitioner and her husband therefrom. As regards the allegation of collusion, it is submitted that the eviction petition was filed not only against the petitioner, but also against the son/petitioner's husband.

8. Learned State counsel fairly concedes that post the drawing of the verdict in ***Simrat Randhawa's*** case, the eviction petition ought to have

been adjudicated by the Maintenance Tribunal-cum-Sub-Divisional Magistrate.

9. This Court has heard learned counsel for the parties and perused the record. The following pivotal issues arise for consideration in the present case:-

(i) Whether the impugned order has been passed by a competent authority?

(ii) Whether, in view of the judgment rendered in LPA-701-2018 (supra), proceedings initiated under the Act of 2007 against a daughter-in-law are maintainable?

(iii) Whether the house in question constitutes a shared household?

(iv) Whether the eviction petition is the result of collusion between the respondent No.2 and his son/petitioner's husband?

10. As regards the issue No. (i), a perusal of the petition (Annexure P-1) reveals that it is not maintainable before the Appellate Tribunal-cum-Additional District Magistrate, as such applications lie before the Maintenance Tribunal presided over by the Sub-Divisional Magistrate. This 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-Additional 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, wherethrough, 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 Co-ordinate 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.”

11. In summa, the **impugned order is hereby set aside** and the **matter is remanded for afresh adjudication in accordance with law, particularly on the issues No. (ii) to (iv), as formulated hereinabove.** The Appellate Tribunal-cum-Additional District Magistrate, is directed to, on receipt of a certified copy of this order, forthwith transmit the original petition (Annexure P-1) to the Maintenance Tribunal-cum-Sub-Divisional Magistrate. The parties are directed to cause appearance before the Sub-Divisional Magistrate on 27.02.2026, whereupon the latter shall endeavour to decide the matter preferably within four months, but only after due compliance with the provisions of the Act of 2007 and the apposite Rules,

including the grant of a fair opportunity of hearing to all the parties concerned.

12. Disposed of accordingly.

13. Needless to say, nothing observed hereinabove shall have any bearing on the merits of the case.

February 17, 2026
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(KULDEEP TIWARI)
JUDGE

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