

104	(I)	CWP-12974-2025
		Date of Decision : March 24, 2026
KAWAR SAIN		-PETITIONER
		V/S
STATE OF HARYANA AND OTHERS		-RESPONDENTS
	(II)	CWP-761-2025
NARAYANI DEVI		-PETITIONER
		V/S
STATE OF HARYANA AND OTHERS		-RESPONDENTS

Present: Mr. Vikram Rathore, Advocate
for the petitioner (in CWP-12974-2025) and
for the respondent No.4 (in CWP-761-2025).

Mr. Paul S. Saini, Advocate
for the petitioner (in CWP-761-2025) and
for the respondent no.4 (in CWP-12974-2025)

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

KULDEEP TIWARI, J. (ORAL)

1. Both these writ petitions are amenable for being decided through a common verdict inasmuch as they involve common parties (mother and son) and lay a common challenge to the order dated 06.08.2024 passed by the Appellate Tribunal under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Act of 2007').

2. To be precise, the son (petitioner in CWP-12974-2025) has assailed the orders dated 29.03.2023 and 06.08.2024 passed respectively by

the Maintenance Tribunal and the Appellate Tribunal, whereby the gift deed executed in his favour has been set aside. The mother/senior citizen (petitioner in CWP-761-2025) has also assailed the order dated 06.08.2024 passed by the Appellate Tribunal, but to the limited extent of the observations recorded therein, namely: (i) the dispute in question constitutes a property dispute amongst the sons of the senior citizen; (ii) counsel for the senior citizen did not object to the mutual family agreement; (iii) the son of the senior citizen lacks the financial capacity to pay maintenance; (iv) the house in question forms part of a mutual family agreement; and (v) the petitioner shall neither gift nor sell the property during her lifetime, and upon her demise, the said property shall devolve upon her son in terms of the mutual family agreement.

3. At the outset, learned counsel for the contesting litigants draw the attention of this Court to the notification dated 08.12.2020 issued by the Social Justice and Empowerment Department, Government of Haryana, prescribing the composition of the Maintenance Tribunal and Appellate Tribunal, to submit that the impugned order dated 06.08.2024 suffers from illegality having been passed *coram non judice*. It is submitted that under the notification (*supra*), both the Maintenance Tribunal and the Appellate Tribunal are required to comprise three members, with the Sub-Divisional Magistrate and the Deputy Commissioner acting as their respective Chairmen. In the present case, however, the impugned order dated 06.08.2024 was passed solely by the District Magistrate, thereby lacking the mandated coram. In support of this contention, reliance is placed on the ***judgment dated 26.10.2016*** rendered by a Coordinate Bench of this Court in

CWP No.18784 of 2015, the relevant paragraph whereof is extracted hereunder:

“I have heard learned counsel for the parties and perused the record with able assistance and am of the considered opinion that the impugned order passed by the Appellate Authority is patently without jurisdiction because as per the Scheme of the Act, the Tribunal and the Appellate Tribunal are constituted by the State Government by way of notification and the appeal has to be decided by the duly constituted Tribunal. In the present case, notification dated 10.12.2012 has been relied upon to which there is no contrary notification produced before this Court. In this notification, the Tribunal has been specifically constituted for Kurukshetra in which there are three Members. District Magistrate may be the Chairman of the Tribunal but once there is a Tribunal of three Members, the District Magistrate has no jurisdiction to take decision alone and the decision has to be taken unanimously or by way of majority. Therefore, on this ground alone, the impugned order deserves to be set aside and thus the present writ petition is hereby allowed and impugned order is set aside and the matter is remanded back to the Tribunal constituted as per notification dated 10.12.2012 to decide the matter afresh after affording due opportunity of hearing to both the parties and by passing a reasoned order.”

4. Learned State counsel does not dispute that the impugned order dated 06.08.2024 is vitiated as it was passed *coram non judice*.

5. Having considered the submissions of learned counsel for the parties and perused the record, this Court has no hesitation in holding that the impugned order dated 06.08.2024 does not pass the test of legality, as it was passed by an authority lacking jurisdiction and the lawful coram, and is therefore a nullity in the eyes of law and cannot be sustained.

6. Accordingly, the **impugned order dated 06.08.2024 passed by the Appellate Tribunal is hereby set aside**, having been passed in the absence of the coram mandated by the notification (*supra*). The **matter is**

remanded to the Appellate Tribunal concerned for fresh adjudication in accordance with the provisions of the Act of 2007. The parties shall cause appearance before the Appellate Tribunal on 09.04.2026, whereupon the latter shall endeavour to decide the matter expeditiously, after affording adequate opportunity of hearing to all parties concerned.

- 7. Both these writ petitions stand disposed of accordingly.
- 8. A photocopy of this order be placed on file of connected case.

March 24, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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