

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

104

CWP-13816-2026

Date of Decision : May 05, 2026

SATINDERPAL KAUR

-PETITIONER

V/S

THE STATE OF PUNJAB AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Himanshu Chhabra, Advocate
for the petitioner.

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

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition has been instituted by a septuagenarian senior citizen assailing the orders dated 15.03.2023 and 20.06.2023 passed by the Maintenance Tribunal and the Appellate Tribunal, respectively. Vide order dated 15.03.2023, the petition preferred by the petitioner under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) seeking cancellation of the transfer deed dated 12.05.2022 executed in favour of respondent No.4 (her son) was dismissed. The statutory appeal preferred thereagainst also met the same fate vide order dated 20.06.2023.

2. Challenging the legality of the impugned orders, learned counsel for the petitioner contends that even in the absence of an express recital or stipulation in the transfer deed making the transfer conditional upon respondent No.4 maintaining and providing for the petitioner, a petition under Section 23 of the Act of 2007 would still be maintainable,

provided all the ingredients of the said provision are duly pleaded and established before the Maintenance Tribunal. It is submitted that the petitioner had specifically averred that the transfer deed was executed on the belief that respondent No.4 would maintain and care for her. However, instead of fulfilling such obligation, he ousted her from the house. It is further contended that the transfer deed was executed without any monetary consideration and solely out of love and affection, which circumstance reflects the underlying expectation of care and maintenance, but these material aspects have been completely overlooked while passing the impugned orders.

3. No other submission has been advanced on behalf of the petitioner.

4. In order to appreciate the submissions advanced by learned counsel for the petitioner and to undertake judicial scrutiny of the impugned orders, it is deemed imperative to advert to the pleadings set up by the petitioner in the petition instituted under Section 23 of the Act of 2007, whereby cancellation of the transfer deed was sought.

5. A perusal of the petition filed under Section 23 reveals that the petitioner had pleaded that after she suffered a fracture in her leg, the wife of respondent No.4, who is a qualified B. Pharmacist and runs a medical store in Village Galoti, invited the petitioner to reside with them so that she could be properly looked after and cared for. It was further pleaded that during her stay at the residence of respondent No.4, she was administered various injections, as a consequence whereof she was not in a sound mental condition. According to the petitioner, respondent No.4

thereafter compelled and pressurized her into executing the transfer deed in his favour, and owing to his influence as well as her own vulnerable condition, she executed the transfer deed in question. It was further alleged that after execution of the transfer deed, respondent No.4 began harassing the petitioner, refused to maintain her, and eventually turned her out of the house. The relevant pleadings contained in the petition under Section 23 are extracted hereinbelow:-

“4. That the petitioner was residing in the house related to this case. On 03 April 2022, she fell from the stairs, resulting in a leg fracture, and was admitted to the hospital. The respondent's wife, who is a B. Pharmacist and runs a medical store in village Galoti, invited the petitioner to stay at their home so that she could be taken care of. While staying at the respondent's house, the petitioner was given various injections, after which she was not in a proper mental condition. Subsequently, the respondent compelled the petitioner to execute a transfer deed in his favor. Under the influence and pressure of the respondent and due to her vulnerable condition, the petitioner executed Transfer Deed No. 98 dated 18/05/2022 in favor of the respondent.”

6. There is no wrangle between the contesting litigants that the transfer deed in question contains no recital or stipulation making the transfer conditional upon the respondent No.4 maintaining or providing for the petitioner. Further, while it is acknowledged that, in certain circumstances, a petition 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 petition under Section 23 and the transfer deed in question makes it evident that the requisite ingredients for the Maintenance Tribunal to exercise its powers under Section 23 were absent. Neither any

specific pleading nor any cogent evidence was brought on record to demonstrate that execution of the transfer deed was premised upon a condition obligating respondent No.4 to maintain the petitioner. Furthermore, the petition under Section 23 is conspicuously silent as to the manner in which respondent No.4 failed to maintain the petitioner, particularly when the pleadings themselves disclose that respondent No.4 had taken care of the petitioner during the period she had suffered a fracture and had also borne the medical expenses incurred in that regard.

7. Apart from the above, the record further reveals that the petitioner is a retired teacher and is receiving pension. It has also come on record that during the proceedings before the Tribunal, the petitioner herself categorically declined to reside with respondent No.4, despite his willingness to keep and serve her, and instead pressed for cancellation of the transfer deed. These aspects stand recorded in the order passed by the Appellate Tribunal, the relevant extract whereof reads as under:-

“....On the other hand, the respondent stated during personal hearing in court that his mother had transferred her rightful share in his name, in which he is residing with his children. They had arranged for their mother’s medical treatment and have been taking care of her, and they are still ready to do so. This fact was admitted by the petitioner herself during personal hearing in court that her treatment was done by the respondent and that he had been taking care of her, and he is still willing to keep her with him. However, the appellant stated that she does not want to live with her son and only wants the property to be transferred back in her name. The appellant did not present any reason or evidence for not wanting to live with the respondent. The appellant did not present any oral or documentary evidence in the lower court or in this court to prove that her son is not taking care of her or that the transfer of ownership was wrongly executed. The appellant is

a retired teacher and is receiving pension from the Government of Punjab for her livelihood. Her son is willing to keep her with him at home, but since the petitioner does not wish to live with him, she has not brought anything on record to justify her stand. Therefore, finding no merit in the appeal/petition and seeing no reason to interfere with the order dated 15-03-2022 passed by the lower court, the appeal/petition is dismissed.”

8. In aftermath, this Court is of the considered opinion that the essential prerequisites for invocation of Section 23 of the Act of 2007 are absent in the present case. The Maintenance Tribunal as well as the Appellate Tribunal have, therefore, rightly declined the relief of cancellation of the transfer deed in question. Consequently, the instant writ petition, being devoid of merit, is **dismissed**.

May 05, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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