

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

109

CWP-15392-2026

Date of Decision : May 18, 2026

MAMRAJ

-PETITIONER

V/S

**APPELLATE TRIBUNAL CUM DISTRICT MAGISTRATE AND
OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Surinder Dagar, Advocate
for the petitioner.

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

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner, an octogenarian senior citizen, assails the order dated 02.12.2025 passed by the Appellate Tribunal, whereby, despite dismissal of the statutory appeal preferred by respondents No.3 and 4, the petitioner has been restrained from alienating or disposing of the ancestral land in question and further directed to transfer the said land in favour of respondents No.3 and 4 to the extent of their share therein.

2. Succinctly stated, the petitioner filed an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) before the Maintenance Tribunal, seeking cancellation of the transfer deed dated 18.03.2024 executed in favour of respondents No.3 and 4 along with the consequential mutation. The Maintenance Tribunal, vide order dated 22.01.2025, allowed the application and cancelled the transfer deed as well

as the consequential mutation. Aggrieved thereby, respondents No.3 and 4 preferred a statutory appeal before the Appellate Tribunal. Although the said appeal came to be dismissed vide the impugned order dated 02.12.2025, the Appellate Tribunal simultaneously directed the petitioner not to alienate or dispose of the ancestral land in question and further directed transfer thereof in favour of respondents No.3 and 4 in accordance with their share. These directions caused pain to the petitioner and propelled him to institute the instant writ petition.

3. At the outset, learned State counsel draws the attention of this Court to Haryana Government's notification dated 08.12.2020, prescribing the composition of the Maintenance Tribunal and Appellate Tribunal, to submit that the order dated 22.01.2025 passed by the Maintenance Tribunal 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 order dated 22.01.2025 was passed solely by the Sub-Divisional Magistrate. Therefore, the said order was rendered without the mandated coram, rendering it illegal and without jurisdiction. 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 counsel for the petitioner does not dispute that the order dated 22.01.2025 passed by the Maintenance Tribunal 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 finds that the order dated 22.01.2025 was passed by an authority lacking jurisdiction and lawful coram prescribed in the notification dated 08.12.2020. Consequently, the same is a nullity in the eyes of law and cannot be sustained.

6. Further, since the Appellate Tribunal overlooked the aforesaid infirmity that the order dated 22.01.2025 was vitiated having been passed *coram non judice*, and proceeded to uphold the same vide its order dated 02.12.2025, the appellate order is also unsustainable and deserves interference.

7. Accordingly, **the orders dated 22.01.2025 and 02.12.2025,**

passed respectively by the Maintenance Tribunal and the Appellate Tribunal, are hereby set aside. The matter is remanded to the Maintenance Tribunal for fresh adjudication in accordance with the provisions of the Act of 2007. The parties shall cause appearance before the Maintenance Tribunal on 02.06.2026, whereupon the latter shall endeavour to decide the matter expeditiously, but after affording adequate opportunity of hearing to all parties concerned.

8. Disposed of accordingly.

May 18, 2026
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(KULDEEP TIWARI)
JUDGE

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