

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

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CWP-15434-2026

Date of Decision : May 18, 2026

SURINDER KAUR

-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ashish K. Gupta, Advocate, and
Mr. Sunil Kumar, Advocate
for the petitioner.

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

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition challenges the order dated 18.02.2026, whereby the Appellate Tribunal, S.A.S. Nagar, allowed the statutory appeal filed by respondent No.5 against the order dated 12.03.2025 passed by the Maintenance Tribunal, Kharar, and restored the transfer deed dated 24.09.2019 in favour of respondent No.5.

2. Learned counsel for the petitioner contends that the petitioner's son and his wife obtained a decree of divorce in 2018 on the mutual understanding that respondent No.5 (petitioner's minor grandson) would reside with his father. Accordingly, the petitioner executed the transfer deed in question in favour of respondent No.5 on the express condition and expectation that he would maintain and provide for the petitioner's basic physical needs and amenities. It is contended that after the execution of the transfer deed, the petitioner's son failed and neglected to maintain the petitioner, and further, custody of respondent No.5 was taken over by his mother in the year 2024. In such circumstances, breach of the condition of maintenance and apprehending

further alienation of the transferred property, the petitioner was compelled to institute proceedings under Sections 4 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”), seeking grant of maintenance and cancellation of the transfer deed in question. It is further contended that if the transfer deed is not annulled and ownership of the property is not restored to the petitioner, the very object and purpose of the Act of 2007 would stand defeated.

3. This Court has heard the submissions advanced by learned counsel for the petitioner, and has also made a studied survey of the record.

4. Although there is no wrangle that the transfer deed contains a specific stipulation rendering the transfer conditional upon the transferee maintaining and providing for the transferor, it is necessary, in order to determine whether the Maintenance Tribunal correctly invoked the mischief of Section 23 of the Act of 2007 to cancel the transfer deed, to examine the averments made in the original application filed by the petitioner. The relevant paragraphs thereof are extracted hereunder:-

“5. That now my son Harinder Singh is not helping me in any manner in my old age and I am in very perturbed state and want to get my above property back.

6. That the applicant apprehends that Harinder Singh respondent, who is biological father and guardian of the minor Angrej Singh can sell the above said property.”

5. A perusal of the original application reveals that the petitioner advanced two grounds for cancellation of the transfer deed: (i) the father of respondent No.5 (petitioner’s son) is not serving the petitioner, which has caused the petitioner distress and led her to seek restoration of the transferred property; and (ii) the petitioner apprehends that the father of respondent No.5 may sell the transferred property.

6. The aforesaid two grounds formed the basis for the Maintenance Tribunal to, without recording any reasons, order cancellation of the transfer deed vide order dated 12.03.2025.

7. Aggrieved by the cancellation of the transfer deed, respondent No.5, through his mother, preferred a statutory appeal under Section 16 of the Act of 2007. In the appeal, certain material facts, which had not been disclosed by the petitioner, were brought to the notice of the Appellate Tribunal. It was specifically pointed out that respondent No.5 was less than eight years of age at the time of execution of the transfer deed and, therefore, no obligation of maintenance could reasonably have been expected from a minor child who himself was dependent upon his grandmother and father following the dissolution of marriage between his parents. It was further brought on record that custody proceedings concerning respondent No.5 were pending before the competent court and custody of the minor had been handed over to his mother on 29.06.2024, which constituted the real reason behind institution of the application by the petitioner on 07.08.2024.

8. The Appellate Tribunal, upon consideration of the aforesaid facts and circumstances, concluded that the essential ingredients for invocation of Section 23 of the Act of 2007 were not satisfied and, consequently, the Maintenance Tribunal lacked jurisdiction to cancel the transfer deed. Accordingly, vide the impugned order dated 18.02.2026, the transfer deed in favour of respondent No.5 was restored.

9. In the considered view of this Court, the Maintenance Tribunal failed to appreciate that none of the allegations levelled by the petitioner satisfied the requirements of Section 23 of the Act of 2007. The transfer deed had been executed in favour of a minor grandson, who was approximately

seven to eight years of age at the relevant time and from whom no obligation of maintenance could reasonably be expected. The minor himself was dependent upon his grandmother and father for his sustenance and upbringing. No prudent person could infer that a transfer in favour of such a minor was executed with the expectation that he would maintain the transferor.

10. Moreover, the petitioner failed to adduce any cogent evidence demonstrating neglect or refusal on the part of her son to maintain her so as to furnish a valid cause of action under the Act of 2007. On the contrary, the facts brought on record by the mother of respondent No.5 sufficiently explain the circumstances leading to the filing of the application by the petitioner, and such facts do not warrant invocation of Section 23 of the Act of 2007. Rather, it appears that the petitioner's son resorted to the provisions of the Act of 2007 through the petitioner in order to settle his matrimonial dispute with his wife, which amounts to a misuse of the provisions of the said enactment and an abuse of the process of law. The proceedings under the Act of 2007 appear to have had their genesis in the transfer of custody of respondent No.5 to his mother, inasmuch as the record reveals that custody was handed over on 29.06.2024, whereas the application under the Act of 2007 came to be instituted subsequently on 07.08.2024.

11. In summa, this Court finds no illegality, perversity, or infirmity in the impugned order dated 18.02.2026 passed by the Appellate Tribunal. Consequently, **the instant writ petition is dismissed**, and the impugned order is hereby affirmed.

12. However, considering that the property in question, i.e. residential house, originally belonged to the petitioner, this Court deems it appropriate to direct that the petitioner shall be entitled to reside in the said house during her lifetime, without prejudice to the rights and interests of respondent No.5

therein. It is further directed that respondent No.5 and/or his guardian(s) shall not alienate the said house during the lifetime of the petitioner.

May 18, 2026
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(KULDEEP TIWARI)
JUDGE

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