



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

CWP-17170-2022 (O&M)

Date of decision: 20.03.2026

Nathu Khan

....Petitioner

Versus

District Magistrate-cum-Chairman Appellate Tribunal, Karnal and others
....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Kiran Verma, Advocate, (Legal Aid Counsel)
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Ms. Gagandeep Kaur, Advocate,
for respondents No.3 and 4.

KULDEEP TIWARI, J. (Oral)

1. Vide instant writ petition, as cast under Articles 226/227 of the Constitution of India, the petitioner impugns the order dated 22.04.2022 (Annexure P-7), passed by the District Magistrate-cum-Chairman, Appellate Tribunal, Karnal (respondent No.1).

2. In brief, the petitioner-senior citizen (Nathu Khan) instituted an application, under Section 22(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) before the learned Appellate Tribunal, Karnal, seeking eviction of private respondents from the house in question as well as protection of his life and liberty. However, upon consideration of the matter in issue, the Appellate Tribunal came to the conclusion that assertions of the applicant



were baseless, and therefore, dismissed the application, through the impugned order

3. At the outset, learned counsel for respondents No.3 and 4, instead of joining issues on merits, submits that the impugned order was rendered by an authority inherently lacking statutory jurisdiction and, therefore, is liable to be set aside, on this ground alone. She asserts that under the unequivocal scheme of the Act of 2007, an application preferred by a senior citizen seeking eviction of the private respondents, who are none other than their son and daughter-in-law, must be entertained and adjudicated exclusively by the three-member Maintenance Tribunal, and not by Appellate Tribunal straightway. In this regard, she refers to a notification No.1041-SW(4)-2020, dated 08.12.2020, issued by the Social Justice and Empowerment Department, Government of Haryana. In such a situation, the impugned order is vitiated by a jurisdictional error, having been rendered *coram non judice*, and is therefore liable to be set aside.

4. Upon being confronted, learned counsel for petitioner does not dispute that the abovesaid factual aspect of the matter. She fairly concedes that the application preferred by the senior citizen ought to have been adjudicated by the three-member Maintenance Tribunal presided over by the Sub-Divisional Magistrate, and not by the Appellate Tribunal.

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 22.04.2022 (Annexure P-7) does not pass the test of legality, as it was passed by an authority lacking jurisdiction. Moreover, by usurping the adjudication of the application filed under the Act of 2007, the



Appellate Tribunal has foreclosed the statutory right of appeal under Section 16 of the Act of 2007.

6. The statutory framework clearly demarcates the original and appellate jurisdictions. A conjoint reading of Sections 2(g), 7, and 16 of the Act of 2007, leaves no room for doubt that a senior citizen beseeching any relief under the Act (supra), must approach the Maintenance Tribunal, which alone is vested with the jurisdiction to adjudicate such claim, in the first instance. Likewise, an appeal against the order of the Maintenance Tribunal lies exclusively before the Appellate Tribunal under Section 16:-

“2. Definitions- In this Act, unless the context otherwise requires -

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j. "Tribunal" means the Maintenance Tribunal constituted under section 7

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7. Constitution of Maintenance Tribunal

1. The State Government shall within a period of six months from the date of the commencement of this Act, by notification in the Official Gazette, constitute for each Sub-division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

2. The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

3. Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

16. Appeals

1. Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order



shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

2. On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

3. The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

4. The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

5. The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

6. The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

7. A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

7. Furthermore, prior to the passing of the impugned order, a Co-ordinate Bench of this Court, vide order dated 23.01.2020, passed in **CWP-4744-2018, (Simrat Randhawa v. State of Punjab and Others)**, had already struck down Clauses 1 to 3 of the “Action Plan for the Protection of Life and Property of Senior Citizens,” notified under Section 22(2) of the Act of 2007, namely: (1) Procedure for eviction from property/residence building belonging to/occupied by senior citizens/parents; (2) Eviction order from property/residential building of senior citizens/parents; and (3) Enforcement of orders. Although, against the said order, the State of Haryana has preferred an appeal, but no stay has been granted by the LPA



Bench. Consequently, the impugned order, having been passed by an authority devoid of jurisdiction, stands vitiated as *coram non judice*.

8. In summa, the impugned order is hereby set aside, and the matter is remitted for fresh adjudication, in accordance with law. The Appellate Tribunal-cum-District Magistrate, is directed to, on receipt of a certified copy of this order, forthwith transmit the original application to the Maintenance Tribunal-cum-Sub-Divisional Magistrate. The parties are directed to cause appearance before the Sub-Divisional Magistrate concerned on 06.04.2026, whereupon, the latter shall decide the matter, after due compliance of 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. Further, the parties shall be at liberty to raise all possible pleas, before the Maintenance Tribunal, which shall consider and deal therewith, before passing an appropriate order.

9. Given the age of the petitioner, who is a septuagenarian, the learned Maintenance Tribunal is directed to conclusively decide the matter, on its own merits, without being influenced or prejudiced, in any manner, by the order dated 22.04.2022 (Annexure P-7), within four months from the receipt of certified copy of this order.

10. **Disposed of**, accordingly

(KULDEEP TIWARI)
JUDGE

20.03.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No