

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

101

CWP-14221-2023

Date of Decision : February 19, 2026

SMT. RAJ

-PETITIONER

V/S

ANITA MALIK AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aditya Jain, Advocate, and
Mr. Rajat Singla, Advocate
for the petitioner.

Mr. Kamal Mor, Advocate
for the respondent No.1.

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

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner, a septuagenarian senior citizen, seeks to set aside the orders dated 16.12.2021 and 21.02.2023, passed respectively by the Maintenance Tribunal and the Appellate Tribunal.

2. Succinctly stated, the petitioner filed a petition under Sections 23 and 24 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 the cancellation of a transfer deed dated 30.05.2019, executed in favour of her daughter/respondent No.1, and the consequent mutation. Vide order dated 16.12.2021, the Maintenance Tribunal declared the transfer deed and mutation null and void, but simultaneously directed that the petitioner shall not transfer or

alienate her property during her lifetime. Aggrieved by this direction, the petitioner preferred a statutory appeal before the Appellate Tribunal, which was dismissed vide order dated 21.02.2023. Hence, the petitioner has approached this Court assailing the orders (*supra*).

3. Learned counsel for the petitioner contends that Section 23 of the Act of 2007 does not empower the Maintenance Tribunal to impose any condition upon a senior citizen while ordering the cancellation of a transfer deed. Further, by drawing the attention of this Court to a notification dated 08.12.2020, prescribing the composition of the Maintenance Tribunals and Appellate Tribunals, learned counsel submits that the impugned order dated 21.02.2023 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/District Magistrate acting as their respective Chairman. In the present case, however, the impugned order dated 21.02.2023 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, 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. Although learned State counsel and learned counsel for respondent No.1 do not dispute that the impugned order dated 21.02.2023 is vitiated as the same has been passed *coram non judice*, learned counsel for respondent No.1 submits that the condition restraining the transfer or alienation of the property was imposed by the Maintenance Tribunal in the interest of the petitioner/senior citizen, as the gamut of the proceedings initiated under the Act of 2007 was to alienate the property to a third party.

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 21.02.2023 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 21.02.2023 is hereby set aside**, having been passed by the Appellate Tribunal without the coram stipulated in 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 and the relevant Rules framed thereunder. Considering that the proceedings have been pending since 15.07.2021, i.e. the date of filing of the original petition, and the petitioner is now approximately 79 years old, this Court directs the Appellate Tribunal to make every endeavour to decide the matter within four months from the date of receipt of a certified copy of this order, after affording adequate opportunity of hearing to all parties concerned.

7. Disposed of accordingly.

February 19, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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