



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

CWP-14950-2023 (O&M)

Date of decision: 12.01.2026

Savitri Devi

....Petitioner

Versus

District Magistrate and Chairman, Appellate Tribunal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rajnish Kumar Gupta, Advocate,
for the petitioner.

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

Mr. J.S. Saneta, Advocate,
for respondent No.3.

KULDEEP TIWARI, J. (Oral)

1. The petitioner, who is a nonagenarian, has filed the instant writ petition under Articles 226/227 of the Constitution of India, challenging the order dated 15.05.2023 (Annexure P-6), vide which, learned Appellate Tribunal has accepted the appeal preferred by respondent No.3, and set aside the order dated 08.01.2020 (Annexure P-2), whereby, the learned Maintenance Tribunal, declared the relinquishment deed No.2492/1 dated 08.08.2011, as null and void.

2. Briefly stated, the facts of the present case, which have led the parties to the current stage, are that the senior citizen-petitioner filed an application under Sections 2(a), 2(h) and 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007'), pleading that she was owner in possession to the extent of 1/3rd



share in the land measuring 56 kanal and 10 marlas. She was desirous of possessing the abovesaid land till her lifetime. Her grandson-respondent No.3 assured that he would look after her throughout life. However, in the month of October, 2019, she acquired knowledge that her grandson had got the abovesaid land transferred in his favour illegally, by way of a release deed No.2492/1 dated 08.08.2011, and as such, mutation No.1346 was also entered in his name. In a state of bewilderment, she convened a panchayat, wherein, the respondent assured her to get the abovesaid deed cancelled. However, subsequently, he, not only backtracked from his assurance, but also started mal-treating her, and also tried to eliminate her. Resultantly, the senior citizen preferred the application (supra), before the learned Maintenance Tribunal, which, upon consideration thereof, declared the release deed in question as null and void, vide order dated 08.01.2020 (Annexure P-2/T).

3. Aggrieved by the said decision, respondent No.3 preferred an appeal. After hearing the parties and analyzing the matter, the learned Appellate Tribunal allowed the appeal, vide order dated 15.05.2023 (Annexure P-6), by setting aside the order (supra). Hence, the applicant-senior citizen is before this Court.

4. Learned counsel for the petitioner submits that the order passed by the learned Maintenance Tribunal was founded on the facts of the matter, therefore, the same ought not to have been interfered with. He further submits that albeit, the transfer deed does not carry any condition, thereby, obliging the respondent to maintain the senior citizen, but it was categorically set out in the application that the transfer deed was, indeed, subject to such a condition. And, sufficient evidence was



brought on record to establish that he failed in discharging his obligation. In this view of the matter, the learned Maintenance Tribunal rightly invoked the mischief of Section 23 of the Act of 2007. He rests his arguments by submitting that the learned Appellate Tribunal has exceeded its jurisdiction, while holding that the land was transferred on account of a family partition, and not on a condition to serve the senior citizen, and thus, assumed the role of a Civil Court.

5. *Per contra*, learned counsel for respondent No.3, in an attempt to put a fierce defence, submits that the application does not recite any condition, to compel the learned Maintenance Tribunal to invoke the mischief of Section 23 of the Act of 2007. Further, the facts of the present case clearly establish that the land was transferred in favour of respondent No.3, on account of a family partition only. In fact, the application has been filed by the senior citizen, at the behest of one Sewa Singh, who is none, but uncle of respondent No.3, with whom she resides. Pertinently, she is also getting an amount of Rs.15,000/- per month, as pension. Finally, it is urged that no such evidence exists on record to substantiate that respondent No.3 has ever refused to maintain the senior citizen/her grandmother.

6. This Court has heard the rival submissions, and gone through the record.

7. Before delving into the merits of the matter at hand, and evaluating the validity of the impugned order, it would be expedient to refer to the relevant part of the application, and the same are extracted hereinafter:-



“4. That the respondent is the grandson of applicant. There was desire of applicant that till she is alive, the property will remain with the applicant.

5. That the applicant is old age person and the respondent gave assurance that he will take care the applicant and he will provide the foods, shelter, etc. to the applicant accordingly till the applicant will be alive.

6. That now in the month of October, 2019, the applicant has come to know that the respondent has succeeded to transfer the above said land in his name illegally and unlawfully.

7. That thereafter the applicant contacted the Halka Patwari and check the revenue record then the applicant came to know that respondent has succeeded to execute the alleged Release Deed bearing vasika no.2492/1 dated 08.08.2011 of the suit land in his favour and mutation no.1346 is also entered and sanction in favour of respondent on the bases of alleged release deed.

8. That the above said alleged release deed bearing vasika no. 2492/1 dated 08.08.2011 and mutation no.1346 are null & void, in effective, inoperative, nonest and is a result of fraud and same is not binding upon the rights of the applicant in any manner and same is liable to be set aside and be set aside.

9. That this fact came to the knowledge of the applicant in the month of October, 2019 and after coming to know the facts the applicant convened a panchayat and in that panchayat the respondent gave assurance that he will cancel the alleged release deed and will transfer the above said land in favour of applicant but later on he has flatly refused to do so and thereafter the respondent started quarreled with the applicant and stopped providing the proper meal and medicines to the applicant and thrown out the applicant from the house and are giving severe beatings to the applicant unnecessarily. It is worthwhile to mention here that the respondent tried to kill the applicant and the respondent threatened the applicant that if she came back in the house and will file any complaint against the respondent, the respondent will kill her.”



8. A bare perusal of the abovesaid averments of the application reflects that it has been the categorical stand of the petitioner that she was oblivious, when the land in question was got transferred by respondent No.3 in his favour, illegally. Further, it is the pleaded case of the applicant that she gained knowledge about the transfer only in the month of October, 2019. Therefore, the sum and substance of the pleaded case of the applicant, is that the transfer in question was a result of fraud being played upon the applicant by her grandson.

9. To analyse the respective versions of the rival parties, it is pertinent to refer to Section 23 of the Act of 2007, which reads thus:-

*“23. Transfer of property to be void in certain circumstances.—
(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.*

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.”

10. The Act of 2007 was enacted to uphold the traditional norms



of Indian Society emphasizing the duty of children and relatives to provide for senior citizens. Accordingly, its provisions must be interpreted to achieve the legislative intent, while ensuring that the Act is not misused for the resolution of ordinary civil or property disputes within families.

11. The provisions, referred to above, empower the senior citizens to seek cancellation of any transfer of property executed by them, either by way of gift deed, or otherwise; with a condition that the transferee has undertaken the obligation to provide basic amenities and maintenance to them. In case, the transferee fails to adhere to the promised maintenance, the transfer of property shall be deemed to have been made by fraud, coercion or undue influence.

12. Sub-clause (1), creates a legal fiction and empowers the learned Tribunal concerned, to presume that the transfer is the result of fraud, coercion or undue influence, in case, the transfer is made subject to the condition that the transferee shall provide the basic amenities, and basic physical needs to the transferor, and post the execution of the transfer deed, the transferee fails to keep the promise.

13. Two ingredients are essential to be established by leading the cogent evidence. The first ingredient is that the transfer was subject to the condition that the transferee shall provide the basic amenities and basic physical needs; and the second is, post execution of the transfer deed, the transferee failed to provide the basic amenities and physical needs.

14. In the instant case, the position is otherwise. To have a crystal clear picture, a recapitulation of the pleaded case of respondent No.3 is inevitable. Grandfather of respondent No.3, (husband of the petitioner) was owner in possession of about 299 kanals, which was



distributed amongst four sons of the petitioner, in equal shares, prior to 2001. Unfortunately, since father of respondent No.3 passed away interstate on 25.09.2001, the land of his share devolved upon the petitioner (mother) and other class-1 heirs, including respondent No.3. Thereafter, during the lifetime of the husband of the petitioner (grandfather of respondent No.3), the relinquishment deed in question was executed by all the abovesaid successors qua the part of land, which fell in the share of the deceased, in favour of respondent No.3.

15. Further, as recorded even by the learned Appellate Tribunal, the relinquishment deed was a joint relinquishment deed, as executed by the grandmother (petitioner), mother, and sister of respondent No.3, on their own sweet will. In such circumstances, there is no scope for doubt that the land in question was transferred in favour of respondent No.3, being son of the deceased, and thus, he is the only absolute owner thereof. The abovesaid chronology of the events compels this Court to hold that in order to deprive the grandson of his legitimate right, the petitioner, at the instance of his son with whom she is residing, has taken the refuge of the provisions of the Act of 2007, in the form of present application. In any case, as discussed above, the Act of 2007 cannot be allowed to be used as a tool to settle personal scores/family property discords. This Court is reminded to point out again, at this juncture, that the senior citizen is living with one of his sons, namely Sewa Singh, and is also enjoying a family pension of Rs.15,000/- per month.

16. Upon being pointedly asked, learned counsel for the petitioner is unable to refer to any evidence to substantiate that the transfer in question was embodied with a condition to maintain the senior



citizen, and respondent No.3 has ever refused to discharge his obligation.
In such circumstances, this Court is of the affirmed view that entire litigation, on the part of the senior citizen, is unwarranted.

17. In conspectus of the above, this Court has no reason to upset the well reasoned order rendered by the learned Appellate Tribunal. Accordingly, the writ petition stands **dismissed**.

(KULDEEP TIWARI)
JUDGE

12.01.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No