



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

CWP-25277-2017 (O&M)

Date of decision: 05.05.2026

Balwinder Singh

....Petitioner

Versus

Sub Divisional Magistrate-cum-Tribunal, Phillaur, District Jalandhar and
others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Onkar Rai, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, Addl. A.G., Punjab.

KULDEEP TIWARI, J. (Oral)

1. The petitioner, by way of instant writ petition, as cast under Article 226/227 of the Constitution of India, questions the legality of the order dated 29.09.2017 (Annexure P-4), passed by the learned Maintenance Tribunal.

2. In nutshell, respondents No.2 and 3, filed an application, under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act'), against their son (petitioner), and daughter-in-law, seeking possession of the house in question, which was allegedly occupied by them. Upon consideration of the matter, the Maintenance Tribunal, vide an *ex-parte* order dated 20.05.2016 (Annexure P-1), directed the petitioner-son to pay them maintenance @ Rs.5,000/- per month. Further, the respondents therein, were also directed not to interfere with the day to day life of the senior citizens. Thereafter, an application seeking modification/amendment in the order (supra), was filed by the senior citizens. In response, the Maintenance Tribunal, vide order dated 15.12.2016 (Annexure P-2),



allowed the said application, and directed the petitioner and his wife to vacate the house in question, forthwith, besides continue to pay the maintenance amount, i.e. Rs.5,000/-. Thereafter, another application, at the instance of the petitioner, was filed to pass a fresh order, after giving him opportunity of hearing. However, the Maintenance Tribunal, vide order dated 29.09.2017 (Annexure P-4), dismissed the application. Hence, the instant writ petition.

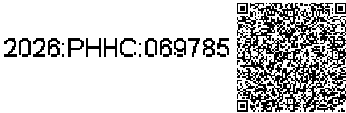
3. This Court has heard learned counsel for the parties, and perused the records.

4. Concededly, a remedy of appeal against the impugned order, under Section 16 of the Act, is available to the petitioner. Further, so far as the issue, as to whether, a non senior citizen can file an appeal against the order of Maintenance Tribunal, is concerned, admittedly, the same is no more *res integra*, as it has already been settled by a Division Bench of this Court, vide order dated 28.05.2014, rendered in **CWP-7282-2010**, wherein it has been held that any affected party has the right to appeal. The relevant portion of the judgment dated 28.05.2014 is extracted hereunder:-

“We are thus of the view that Section 16(1) of the said Act is valid, but must be read to provide for the right of appeal to any of the affected parties.”

5. It is a matter of record that the petitioner, without taking recourse to the statutory remedy available to him, has straightaway preferred the present petition, which is pending since 2017. Further, while issuing notice of motion, vide order dated 07.11.2017, a Coordinate Bench had stayed the eviction of the petitioner from the house in question, which is operational till date. In such a situation, the petition at hand is not maintainable.

6. As a sequel, the petitioner is relegated to the Appellate Tribunal, at the first instance. In the event, the petitioner files an appeal against the order passed by the Maintenance Tribunal, within a month from today, along with an application for condonation of delay, the latter shall consider the same sympathetically, as the petitioner has been



pursuing the *lis*, before this Court. However, it is clarified that the interim order dated 07.11.2017 (*supra*), shall remain in force only for a month from today. Since the matter has been relegated to the Appellate Tribunal, the petitioner shall be at liberty to file an appropriate application as regards the interim protection, which shall be considered and decided, in accordance with law.

7. This Court is sanguine that the Appellate Tribunal 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, at the earliest, preferably within a period of four months from the filing of the appeal.

8. The instant writ petition stands **disposed of**, accordingly.

(KULDEEP TIWARI)
JUDGE

05.05.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No