



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

CWP-24707-2024 (O&M)

Date of decision: 24.02.2026

Harminder Singh

....Petitioner

Versus

Deputy Commissioner SBS Nagar, District SBS Nagar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aditya Dassaur, Advocate,
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. Gagandeep Singh Sirphkhi, Advocate,
for respondent No.3.

KULDEEP TIWARI, J. (Oral)

1. The instant writ petition, as cast under Article 226/227 of the Constitution of India, is directed against the order dated 24.07.2024 (Annexure P-5), passed by the learned Maintenance Tribunal, vide which, an application preferred by respondent No.3-senior citizen, under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was allowed. Consequently, the transfer deed dated 29.08.2011, executed by her in favour of the petitioner (son), was cancelled. Further, the order dated 28.08.2024 (Annexure P-7), is also assailed, whereby, the appeal preferred by the petitioner against the order (supra), has been dismissed

2. Learned counsel for the petitioner submits that there exists no recital of any condition in the transfer deed, with regard to



maintaining the senior citizen, as it had been executed purely out of love and affection. While referring to the contents of the application, he submits that, it was averred that transfer was subject to the condition of maintenance by the petitioner, but no evidence, in this regard, was led. So much so, the senior citizen also failed to carve out any pleading in the application, or any cogent evidence to even remotely prove that the petitioner has ever neglected or backtracked from his responsibility to maintain her. However, the learned Maintenance Tribunal, even in the absence of any material on record, has erroneously invoked the mischief of Section 23 of the Act of 2007.

3. Proceeding further with his submissions, it is contended that the petitioner is a permanent citizen of Austria, and owing to that, even the senior citizen is possessed with green card. In this regard, he draws attention of this Court towards the documents issued to the senior citizen by the Austrian Embassy, appended as Annexure P-2. Not just that, she is also receiving a handsome pension from the Austrian Government. Furthermore, when, during the outbreak of pandemic (Covid-19), the senior citizen was stranded in India, it was only due the strenuous efforts put in by the petitioner, she had been able to return to Austria. In this connection, it is pertinent to submit that, had the petitioner not wished to take care of her mother, he would not have made any effort to evacuate her to Austria. While concluding, he submits that, in fact, the application was filed at the behest of the sisters of the petitioner, in order to usurp the property in question.

4. On the other hand, learned counsel for the respondent-senior citizen, while vehemently opposing the stand set out by the petitioner,



submits that though, there is no recital in the transfer deed of any such condition, but in the application, it has been categorically stated that transfer is subject to maintenance by the petitioner. He further submits that a specific statement was suffered by the senior citizen before the learned Tribunal that, post transfer of the property, her son backed out, and stopped maintaining her, which is sufficient for invocation of mischief of Section 23 of the Act of 2007. Finally, he submits that the property in question was transferred in equal shares by the senior citizen in favour of both of her sons. However, subsequently, her other son re-transferred the land, whereas, the petitioner refused to do so. Therefore, the senior citizen had no other option, but to approach the learned Maintenance Tribunal.

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

6. Unfortunately, this Court is faced with a situation, where it has to decide the rights of mother and son. Considering the sanctity of the relationship between the parties, this Court had put in earnest efforts to resolve the matter amicably. As a consequence, on 11.12.2025, learned counsel for the petitioner had come up with an offer that entire lease amount of the land in question would be paid to the senior citizen, till her lifetime. Accordingly, the following order was passed:-

“Learned counsel for the petitioner, at the outset, submits that the petitioner is living abroad and making all efforts to maintain his mother. However, the instant application has been filed at the behest of his sister, who, out of greed, is out to usurp the land in question. To show his bonafide that he wants to maintain his mother, he further



submits that the entire lease amount of this land in question would be transmitted to his mother's bank account till her lifetime.

Learned counsel for respondent No.3 seeks an adjournment to have apt instructions to the proposal made by learned counsel for the petitioner.

xx xx xx xx”

7. In response, learned counsel for respondent No.3, on instructions, submits that the senior citizen has shown her disinclination towards amicable settlement, and thus, insisted upon decision on merits. This Court has also been informed by learned counsel for the petitioner that the land, which was re-transferred by the brother of the petitioner, has been sold out by the senior citizen, and she is enjoying the entire sale consideration, as is reflected in the mutation. No contrary evidence is produced on record, in this regard.

8. A thorough scrutiny of the application reveals that there is a specific averment that the transfer would be subject to maintenance of the senior citizen:-

“.....Upon perusal it is found that respondent Sh. Harminder Singh do not look after his mother Smt. Manjit Kaur nor he give any expenses to her. Aggrieved, she has demanded justice. In reply to question asked to applicant Smt. Manjit Kaur about getting expenses from her son she said that now I do not want to get any expenses from my son, only my land be returned to me...”

9. However, neither any assertion, nor any evidence was led by her to lend credence to the version that the petitioner has failed to maintain her. At this juncture, this Court is reminded to take note of the



fact that the petitioner made all efforts to evacuate his mother to Austria, during the pandemic. This shows the compassion of a son for her mother, despite being in a position to keep silent, if he did not wish her mother to come back to Austria. In the absence of any evidence, or assertion that petitioner fails to maintain his mother, the Tribunal was equipped with no circumstance to invoke the mischief of Section 23 of the Act of 2007. So much so, the learned Tribunal failed to refer to any piece of evidence or record any finding, which could remotely suggest that petitioner, at any stage, did not maintain his mother.

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. Further, Section 23 thereof, postulates that where a senior citizen has, after commencement of the Act, transferred his/her property by way of gift or otherwise, subject to the condition that the transferee shall provide for his basic amenities and physical needs, and such transferee fails, or refuses to do so, the Maintenance Tribunal is empowered to declare such transfer to have been made by way of fraud, coercion, or undue influence.

11. Conversely, in the matter at hand, the only ground upon which the learned Tribunal has based its decision, i.e. petitioner failed to maintain his mother, has no corroboration either. Needless to assert that the applicant-senior citizen was obliged to discharge her onus by leading any evidence, much less cogent, to prove the plea around which the entire



case revolves. Therefore, this Court has no reason to presume anything in favour of the senior citizen, in abstract. Not only that, it also lends strength to the argument that the application is nothing short of an abuse of process, as it was the result of instigation by sisters of the petitioner, in an attempt to grab the property in question.

12. In conspectus of the abovesaid narration, this Court is of the considered opinion that the authorities below have grossly erred in law, while ignoring the material factual aspects of the matter. Accordingly, the impugned orders are **set aside**, and the instant writ petition stands **allowed**.

(KULDEEP TIWARI)
JUDGE

24.02.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No