



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

CWP-31184-2019 (O&M)

Date of decision: 28.04.2026

Harjinder Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Pankaj Bali, Advocate,
for the petitioner.

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

Mr. Sohrab, Advocate,
for respondent No.5.

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 31.01.2019 (Annexure P-6), passed by the Additional Deputy Commissioner (G), SAS Nagar-(respondent No.2), whereby, an application preferred by the senior citizen-respondent No.5, under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007'), for eviction of his son and daughter-in-law from the house in question, has been allowed.

2. At the outset, learned counsel for the petitioner as well as learned State counsel, are *ad idem* that the impugned order has been rendered by an authority inherently lacking statutory jurisdiction, and therefore is liable to be set aside, on this ground alone. They submit that under the unequivocal Scheme of the Act of 2007, an application preferred by senior citizens 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.



3. Upon being confronted, learned counsel for respondent No.5, does not dispute that the abovesaid factual aspect of the matter. He fairly concedes that the application preferred by the senior citizen ought to have been adjudicated by the Maintenance Tribunal presided over by the Sub-Divisional Magistrate, and not by the Appellate Tribunal.

4. 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 31.01.2019 (Annexure P-6) 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.

5. 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.

6. Besides the above explained incurable defect, learned State counsel also points out that the impugned order has been passed by an authority devoid of statutory jurisdiction. In this regard, he draws attention of this Court towards the Punjab Government Notification bearing No. 8/10/2008-8SS/542 dated 15.07.2008, and in exercise of powers



conferred under Sections 7(1)&(2) and 15(1)&(2) of the Act of 2007, the Governor of Punjab constituted the Maintenance Tribunals/Appellate Tribunals, and their jurisdictions for the implementation of the Act of 2007, are as under:-

Sr. No.	Name of the Tribunal	Jurisdiction	Presiding Officer of the Tribunal
1.	Maintenance Tribunal	Sub Division of the District concerned	Sub Divisional Magistrate of the area concerned
2.	Appellate Tribunal	District concerned	District Magistrate of the area concerned

7. In the instant case, the appellate order has not been passed by the statutory authority, i.e. District Magistrate, but by an authority exercising sub-delegated powers, i.e. Additional Deputy Commissioner. So much so, he also refers to the instructions dated 27.10.2025, issued by the Directorate Social Security and Women & Child Development, Punjab, wherethrough, it has been categorically clarified that the District Magistrates/Presiding Officers of the Appellate Tribunals constituted under the Act of 2007 are not authorized to sub-delegate their quasi-judicial functions and powers to any subordinate or other officer, irrespective of rank or competence. The relevant portion of the instructions is extracted hereunder:-

“To

All District Magistrates/Presiding Officers, Appellate Tribunal Constituted under Sections 15(1) & 15(2) of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

No. P-3(SS)/2025/82189

Dated, Chandigarh 27-10-2025

Sub: Implementation of the Hon'ble High Court Order dated 26.09.2025 in CWP No. 27866 of 2025 - Davinder Singh vs. Additional District Magistrate & Others.

In continuation of this Department's Notification No. 8/10/2008-8SS/798 dated 27th August 2008, (Flag-A) whereby



the District Magistrates were designated as Presiding Officers of the Appellate Tribunals constituted under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, attention is invited to the recent directions issued by the Hon'ble Punjab and Haryana High Court, Chandigarh, in CWP No. 27866 of 2025 - Davinder Singh vs. Additional District Magistrate & Others decided on 26.09.2025. (Flag-B)

2. *The Hon'ble Court has categorically clarified that the District Magistrates/Presiding Officers of the Appellate Tribunals constituted under the said Act are not authorized to sub-delegate their quasi-judicial functions and powers to any subordinate or other officer, irrespective of rank or competence.*

3. *Pursuant to the said judgment, the Office of the Worthy Chief Secretary to Government of Punjab, vide letter No.OSD(L)/CS/2025/64708997 dated 09.10.2025, (Flag-C) has directed that the above order be circulated to all concerned authorities for meticulous compliance.(Copy enclosed along with Hon'ble Court orders).*

4. *It is, therefore, requested to ensure strict and prompt compliance with the aforesaid directions of the Hon'ble High Court and the Chief Secretary's Office. It may further be ensured that a copy of these orders is circulated to all Sub-Divisional Magistrates under your jurisdiction for necessary action and adherence.*

5. *Non-compliance may attract adverse observations from the Hon'ble Court; therefore, the matter may be treated as Top Priority.*

Encls. As above."

8. In the wake of the abovesaid conceded position, 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



18.05.2026, 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 parties, 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 abovesaid order dated 31.01.2019, within four months from the receipt of certified copy of this order.

10. **Disposed of**, accordingly

(KULDEEP TIWARI)
JUDGE

28.04.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No