



CWP-28704-2022

1

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

(204)

CWP-28704-2022

Date of Decision : 07.05.2026

Sushil Jain

...Petitioner

Versus

Additional Deputy Commissioner cum Magistrate,
Jagroan, Camp Office Ludhiana, Mini Secretariat,
Ludhiana, and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Nitin Sachdeva, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, Addl. AG, Punjab.

Mr. Vishal Sharma, Advocate
for respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. Fetching grievance from the order dated 06.09.2022 (Annexure P-10), passed by learned Additional Deputy Commissioner cum Collector, Jagroan, wherethrough, the application preferred by the petitioner/senior citizen, under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act of 2007'), seeking eviction of private respondent No.2 (daughter), from the property/shop in question, was dismissed.

2. The legality of the impugned order was put to challenge, primarily, on the ground, that same suffers from inherent lack of jurisdiction.

3. Learned counsel for the petitioner has also drawn the attention of

this Court towards the order impugned, and submits that the order dated



CWP-28704-2022

2

06.09.2022 (Annexure P-10), as passed by learned Additional Deputy Commissioner cum Collector, Jagroan, suffers from *delegata potestas non potest delegari*, and therefore, the order (supra), is *per se* illegal and cannot be cured, and requires interference of this Court.

4. Learned counsel appearing on behalf of the respondent No.2, though joined the issue on merits. However, he is unable to refute the factual position, to the effect, that the order impugned is *void* being *delegata potestas non potest delegari*.

5. This Court has heard the learned counsel for the parties, and has gone through the order impugned.

6. Upon being pointedly asked, as to whether, under the statutory provisions, the District Magistrates/Presiding Officers of the Appellate Tribunals are competent to sub-delegate their *quasi-judicial* functions and powers vested in them by statute, to which, learned State counsel fairly concedes that such functions and powers cannot be sub-delegated. Further, he has also furnished a copy of the instructions dated 27.10.2025, issued by the Directorate Social Security and Women and Child Development, Punjab, wherethrough, it has been categorically clarified to all the concerned authorities 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."

"Notification

Dated Chandigarh the 27th August, 2008

In view of 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 ibid, as under:-

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

7. 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 06.09.2022 (Annexure P-10) 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.

8. Furthermore, prior to the passing of the impugned order, a Coordinate Bench of this Court, vide order dated 23.01.2020, passed in **CWP-4744-2018**, titled **‘Simrat Randhawa v. State of Punjab and Others’**, had already struck down Clauses 1 to 3 of the “Action Plan for the Protection of Life and Property of Senior Citizens,” notified under Section 22(2) of the Act of 2007, namely: (1) Procedure for eviction from property/residence building belonging to/occupied by senior citizens/parents; (2) Eviction order from property/residential building of senior citizens/parents; and (3) Enforcement of orders. Although, against the said order, the State of Haryana has preferred an appeal, but no stay has been granted by the LPA Bench of this Court.

9. Consequently, the impugned order is **set aside** and the matter is **remitted** to the Deputy Commissioner/District Magistrate-cum-Appellate Tribunal, concerned, for adjudication afresh, in accordance with Section 16 of



CWP-28704-2022

5

the Act of 2007. The Additional Deputy Commissioner-cum-Collector, Jagraon, is directed to forthwith, transmit the original record of the case to the Deputy Commissioner/District Magistrate-cum-Appellate Tribunal, concerned.

10. Both the parties are directed to cause appearance before the Deputy Commissioner/District Magistrate-cum-Appellate Tribunal concerned, on 25.05.2026 at 11:00 AM, whereupon, the latter shall make an endeavour to decide the matter preferably within four months, after affording adequate opportunity of hearing to the parties concerned.

11. Consequently, the instant writ petition is **disposed of**.

(KULDEEP TIWARI)
JUDGE

May 07, 2026
Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No