

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

103

CWP-28025-2025

Date of Decision : April 21, 2026

YADVINDER SINGH

-PETITIONER

V/S

**DEPUTY COMMISSIONER / DISTRICT COLLECTOR,
FATEHABAD AND OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. G.S. Kaura, Advocate, with
Mr. Rangat Joshi, Advocate,
Mr. Dhruv Trehan, Advocate,
Mr. Amanpreet Singh Dhiman, Advocate, and
Ms. Shubh Karman Kaur Kaura, Advocate
for the petitioner.

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

Mr. Rajesh Sethi, Advocate, with
Mr. Arun Biriwal, Advocate, and
Mr. Anshuman Sethi, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner seeks to set aside the orders dated 25.03.2025 and 18.07.2025, passed respectively by the Maintenance Tribunal and the Appellate Tribunal.
2. Succinctly stated, the respondent No.3, a senior citizen, filed an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) and the Rules framed thereunder before the Maintenance Tribunal, seeking cancellation of a transfer deed dated 25.06.2020 executed in favour of her grandson/petitioner. Vide order dated 25.03.2025, the Maintenance Tribunal

allowed the application under Section 23(2) of the Act of 2007 and set aside the transfer deed. Aggrieved thereby, the petitioner preferred a statutory appeal, which was dismissed vide order dated 18.07.2025. In this way, deriving grievance from cancellation of the transfer deed, the petitioner has approached this Court assailing the orders (*supra*).

3. Assailing the impugned orders, learned counsel for the petitioner raises a two-fold submission. Firstly, he draws attention to the contents of the application filed by the respondent No.3 and submits that the allegations therein are founded on fraud and misrepresentation in the execution of the transfer deed, and not on the ground that the transfer was executed out of love and affection followed by petitioner's failure to maintain the senior citizen. It is, therefore, contended that the contents of the application do not attract the mischief of Section 23 of the Act of 2007.

4. Secondly, learned counsel for the petitioner draws the attention of this Court to a notification dated 08.12.2020, prescribing the composition of the Maintenance Tribunals and Appellate Tribunals, to submit that the impugned order dated 25.03.2025 suffers from illegality, having been passed *coram non judice*. It is submitted that under the notification (*supra*), both the Maintenance Tribunal and the Appellate Tribunal are required to comprise three members, with the Sub-Divisional Magistrate and the Deputy Commissioner/District Magistrate acting as their respective Chairmen. In the present case, however, the impugned order dated 25.03.2025 was passed solely by the Sub-Divisional Magistrate, thereby lacking the mandated coram. In support of this contention, reliance is placed on the ***judgment dated 26.10.2016*** rendered by a Coordinate Bench of this

Court in **CWP No.18784 of 2015**, the relevant paragraph whereof is extracted hereunder:

“I have heard learned counsel for the parties and perused the record with able assistance and am of the considered opinion that the impugned order passed by the Appellate Authority is patently without jurisdiction because as per the Scheme of the Act, the Tribunal and the Appellate Tribunal are constituted by the State Government by way of notification and the appeal has to be decided by the duly constituted Tribunal. In the present case, notification dated 10.12.2012 has been relied upon to which there is no contrary notification produced before this Court. In this notification, the Tribunal has been specifically constituted for Kurukshetra in which there are three Members. District Magistrate may be the Chairman of the Tribunal but once there is a Tribunal of three Members, the District Magistrate has no jurisdiction to take decision alone and the decision has to be taken unanimously or by way of majority. Therefore, on this ground alone, the impugned order deserves to be set aside and thus the present writ petition is hereby allowed and impugned order is set aside and the matter is remanded back to the Tribunal constituted as per notification dated 10.12.2012 to decide the matter afresh after affording due opportunity of hearing to both the parties and by passing a reasoned order.”

5. Although learned State counsel and learned counsel for the respondent No.3 do not dispute that the impugned order dated 25.03.2025 is vitiated, as it has been passed *coram non judice*, learned counsel for the respondent No.3 vehemently opposes the first contention raised on behalf of the petitioner and submits that even a plea of fraud can be raised while invoking the provisions of Section 23 of the Act of 2007.

6. Learned counsel for the respondent No.3 further submits that although the petitioner has taken a specific stand that he has paid ₹80,000/- and has always been ready and willing to maintain the respondent No.3, no evidence whatsoever has been produced in support thereof, thereby creating

a legal fiction that, post execution of the transfer deed, the petitioner refused to maintain the respondent No.3. It is, therefore, contended that the Tribunals have rightly invoked Section 23 of the Act of 2007 in cancelling the transfer deed. In support of his case, he places reliance upon the verdicts rendered in “*Raviprakash R. Sodhani and anr. vs. Ram Swaroop Sodhani and ors.*”, Law Finder Doc Id # 2787914, “*Ramkishna Pandey vs. State of Chhattisgarh and ors.*”, Law Finder Doc Id # 2843015, “*Urmila Dixit vs. Sunil Sharan Dixit and ors.*”, 2025(2) SCC 787, and “*Chandiram Anandram Hemnani and ors. vs. Senior Citizens Appellate Tribunal/District Collector and ors.*”, 2025(4) BCR667.

7. Having considered the submissions of learned counsel for the parties and perused the record, this Court finds that the first issue raised on behalf of the petitioner assumes core significance for adjudication of the *lis*. However, this Court refrains from adjudicating the same at this stage, as once an order is found to have been passed by an authority lacking jurisdiction or lawful coram, it is a nullity in the eyes of law and cannot be sustained.

8. Accordingly, the **impugned order dated 25.03.2025 is hereby set aside**, having been passed by the Maintenance Tribunal in the absence of the coram mandated by the notification (*supra*). Consequentially, the **impugned order dated 18.07.2025 is also hereby set aside**, as it upheld the order dated 25.03.2025, which stood vitiated having been passed *coram non judice*. The matter is remanded to the Maintenance Tribunal concerned for fresh adjudication in accordance with the provisions of the Act of 2007 and the relevant Rules framed thereunder. Both the parties are directed to

cause appearance before the Maintenance Tribunal on 04.05.2026, whereupon the latter shall endeavour to decide the matter expeditiously, but after affording adequate opportunity of hearing to the parties. The parties shall be at liberty to raise their respective pleas before the Maintenance Tribunal.

9. Disposed of accordingly.

April 21, 2026
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No