

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

108

CWP-35307-2025

Date of Decision : February 26, 2026

PARVEEN

-PETITIONER

V/S

**APPELLATE TRIBUNAL CUM DISTRICT MAGISTRATE AND
OTHERS**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Hardik Ahluwalia, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

Mr. Nakul Sharma, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant writ petition, the petitioner, a sexagenarian senior citizen, assails the order dated 24.09.2025 passed by the Appellate Tribunal, as well as the orders dated 01.04.2025 and 10.06.2025 passed by the Maintenance Tribunal.

2. Succinctly stated, the petitioner instituted a petition under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) seeking cancellation of the transfer deed dated 17.03.2016, executed by her in favour of her brother/respondent No.3, who is also a senior citizen. Owing to the absence of the petitioner and her counsel, the Maintenance Tribunal, vide order dated 01.04.2025, dismissed the petition for want of prosecution. Consequently, the petitioner filed an application for restoration of the petition along with an application for condonation of delay. However, the Maintenance Tribunal, vide

order dated 10.06.2025, declined to condone the delay and dismissed the restoration application at the preliminary stage. Aggrieved thereby, the petitioner preferred a statutory appeal before the Appellate Tribunal, which too came to be dismissed vide order dated 24.09.2025. Hence, the petitioner has approached this Court challenging the orders (*supra*).

3. Learned counsel for the petitioner contends that the dismissal of the petition under Section 23 of the Act of 2007 on account of a solitary non-appearance of the petitioner and her counsel is manifestly arbitrary and contrary to the benevolent object of the Act of 2007, which enjoins the Maintenance Tribunal to ensure protection and welfare of senior citizens. It is further submitted that the Maintenance Tribunal adopted a hyper-technical approach in dismissing the restoration application on the ground of delay of 48 days, even though the explanation proffered therein adequately justified the delay, but the Maintenance Tribunal failed to consider the same in its true and proper perspective.

4. *Per contra*, learned counsel for the respondent No.3 draws the attention of this Court to the averments contained in the petition filed under Section 23 of the Act of 2007, to argue that the said petition was not maintainable against the respondent No.3 inasmuch as he too is a senior citizen. It is submitted that the transfer deed in question does not contain any express recital or stipulation rendering the transfer conditional upon the respondent No.3 maintaining or providing for the petitioner, nor is there any material on record to substantiate the existence of such a condition. It is further submitted that the petition under Section 23 is an offshoot of an *inter se* property dispute between the respondent No.3 and his daughter, and the same has been engineered at the behest of the latter.

5. This Court has heard the submissions advanced by learned counsel for the parties and has also perused the record.

6. This Court finds merit in the contentions urged by learned counsel for the petitioner, inasmuch as the Maintenance Tribunal has dismissed the petition under Section 23 of the Act of 2007 in a patently erroneous, precipitate and harsh manner solely on account of a single instance of absence of the petitioner and her counsel. Furthermore, the application seeking restoration of the said petition was not examined in its proper perspective and came to be rejected on a purely technical ground of delay, without due consideration of the circumstances involved.

7. Accordingly, this Court deems it just and expedient to set aside the order dated 01.04.2025 passed by the Maintenance Tribunal along with all consequential and subsequent orders passed by the Maintenance Tribunal as well as the Appellate Tribunal. The matter is accordingly remanded to the Maintenance Tribunal for fresh adjudication on merits, after affording due opportunity of hearing to all parties concerned.

8. Insofar as the objection regarding the maintainability of the petition under Section 23, as raised by learned counsel for respondent No.3, is concerned, the same is kept open for consideration and shall be decided by the Maintenance Tribunal at the time of adjudication of the petition under Section 23, in accordance with law.

9. **Disposed of accordingly.**

February 26, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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