



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

**CWP-14607-2022 (O&M)
Reserved on: 02.09.2025
Pronounced on: 04.09.2025**

Shamsher Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. V.P. Sangwan, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, Addl. A.G., Haryana.

Mr. Sumit Sangwan, Advocate,
for respondent No.4.

KULDEEP TIWARI, J.

1. The petitioner, who is a foster/adopted son of respondent No.4 (Smt. Ompati), has assailed the order dated 16.12.2021 (P-1), passed by the learned Appellate Tribunal-cum-Deputy Collector, Charkhi Dadri, vide which, a specific direction has been issued to him, to remit an amount of Rs.10,000/- per month, in the account of her mother-respondent No.4, as maintenance.

2. Learned counsel for the petitioner submitted that the learned Senior Citizen Tribunal had rightly rejected the application preferred by respondent No.4, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007'). He further submitted that the land, qua which the transfer deed was sought to be



cancelled, was, in fact, transferred by the husband of respondent No.4, and that too, in the year 2003. It is submitted that once the Local Commissioner, as appointed by the learned Tribunal, who was none other than the member of the Tribunal itself, categorically set out in his report that the petitioner was maintaining his mother-respondent No.4 well, thus, there was no occasion for the learned Appellate Tribunal to issue a direction as regards payment of maintenance amount. While drawing attention of the Court towards the application filed by respondent No.4, it is vehemently contended that no prayer as regards maintenance was made. Rather, the only relief prayed for, was, with regard to cancellation of the transfer deed. Therefore, the learned Appellate Tribunal has travelled beyond the prayer(s) made in the original application. Finally, he asserted that even during the proceedings before the learned Maintenance Tribunal, one of its members, had putforth a proposal to grant an amount of Rs.10,000/- per month as maintenance, but she did not accept the same, rather, insisted for adjudication of her application.

3. *Per contra*, learned counsel for respondent No.4 vociferously opposed the submissions made by learned counsel for the petitioner. He submitted that the impugned order, directing the petitioner to pay maintenance to her foster mother-respondent No.4, is well within the realm of the Act of 2007. Further, it is submitted that indisputably, the property in question was owned by the deceased husband of respondent No.4, and he transferred the same in favour of the petitioner, therefore, she has every right of maintenance. In such circumstances, the instant writ petition is liable to be dismissed.



4. This Court has heard learned counsel for the parties and perused the record, including the orders (supra).

5. Before evaluating the submissions advanced by learned counsel for the parties and gauging the legality of the impugned order, it would be essential to take note of the relevant facts.

6. Respondent No.4 had filed an application under Section 23 of the Act of 2007, before the learned Maintenance Tribunal, Charkhi Dadri, for cancellation of the transfer deed executed by her deceased husband in favour of the petitioner, thereby, transferring the said land in her name. It was pleaded before the learned Maintenance Tribunal that she is aged about 68 years, and her husband, (late Sh. Kishan) and Sh. Daryao Singh, were real brothers. Further, though, Sh. Daryao Singh had been blessed with two sons, namely Chajju Ram and Shamsher (petitioner), but, no child was born to respondent No.4. In such circumstances, deceased husband of respondent No.4 had adopted the petitioner. Consequently, the entire share of Sh. Daryao Singh was transferred in favour of Chajju Ram, whereas, husband of respondent No.4 bequeathed his share in the name of petitioner, with a hope and trust that he would take care of his old aged wife. However, it was alleged that, post death of her husband, petitioner started mal-treating respondent No.4. Accordingly, she was left with no other option, but to move an application for cancellation of the transfer deed.

7. In response, the petitioner caused appearance and denied all allegations leveled against him. It was categorically stated that he was taking care of her foster mother and never misbehaved with her. In fact,



the application was filed, at the instance of his elder brother-Chajju Ram, which was nothing, but a glaring abuse of the provisions of the Act of 2007. It was also stated the neither he gave any beatings to respondent No.4 at any point of time, nor did he sell any piece of land.

8. After considering the rival submissions and report submitted by the Local Commissioner, the learned Tribunal came to a conclusion that applicant-respondent No.4 was never mal-treated by the petitioner, rather, he was maintaining her. Accordingly, the application preferred by respondent No.4 was dismissed, vide order dated 08.10.2021 (Annexure P-12). Feeling aggrieved, respondent No.4 approached the learned Appellate Tribunal by filing statutory appeal. Consequently, the learned Appellate Tribunal, vide order dated 16.12.2021 (Annexure P-1), modified the order dated 08.10.2021, only to the extent that petitioner was directed to remit an amount of Rs.10,000/- per month in the account of respondent No.4, as maintenance allowance.

9. In this backdrop, petitioner has filed the instant writ petition, under Articles 226/227 of the Constitution of India, for setting aside the impugned order.

10. It is not in dispute that husband of respondent No.4 had adopted the petitioner, and thus, transferred his entire property in his name. It is also not under dispute that respondent No.4, also has a right to seek maintenance, out of the earnings of the estate of her husband, even if the same has been transferred in the name of petitioner. Concededly, respondent No.4 is living in village Kakroli, but the petitioner has shifted his abode to a different place in Charkhi Dadri, on



account of his employment. But, in any case, the petitioner, in view of the Act of 2007, is under obligation to maintain her mother-respondent No.4, specifically, when he has been bequeathed with the estate of her husband. So far as the amount of Rs.10,000/- per month, which was ordered to be paid to respondent No.4, is concerned, the same cannot be said to be on higher side, considering the value of the land in question.

11. It is necessary to point out, at this juncture, that though, respondent No.4 did not cloth her application with a prayer for maintenance charges, still the learned Appellate Tribunal was well within its jurisdiction to grant the said relief to her. In fact, not letting this technicality stand in the way of substantial justice, the learned Appellate Tribunal has safeguarded the very purpose and object of the Act of 2007, from being defied.

12. However, during the course of hearing, it was argued on behalf of respondent No.4 that petitioner has not cleared the arrears on account of maintenance. On the other hand, learned counsel for the petitioner submitted that the petitioner has cleared the entire arrears till March, 2025, and rest of the outstanding amount, would be remitted to respondent No.4, within a period of two weeks from today

13. In summa, this Court is of the considered opinion that the learned Appellate Tribunal has consciously not upset the findings returned by the learned Maintenance Tribunal, but only, with a view to strike a balance between the parties, modified the same to the extent that petitioner has been directed to pay Rs.10,000/- per month. Accordingly, the writ petition is **dismissed**.

2025:PHHC:121339



14. Before parting with the judgment, it needs to be observed that since, as indicated above, learned counsel for the petitioner has specifically undertaken that the petitioner would clear all the outstanding amount within two weeks from passing of this order, this Court refrains from issuing any Mandamus upon him, in this regard. However, this Court is sanguine that the petitioner will continue to pay the maintenance amount, without any default.

(KULDEEP TIWARI)
JUDGE

04.09.2025
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No