



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

CWP-31639-2019 (O&M)

Date of decision: 08.10.2025

Pawan Kumar and another

....Petitioners

Versus

The District Magistrate-cum-Appellate Authority (under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007), Union Territory of Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Shekhar Choudhary, Advocate,
for the petitioners.

Mr. Parminder Singh Kanwar, Addl. Standing Counsel,
for the respondent-U.T., Chandigarh.

Mr. Balwinder Singh, Advocate,
for respondent No.3.

KULDEEP TIWARI, J. (Oral)

1. The petitioners, who are son and daughter-in-law of respondent No.3 (Smt. Satya Devi), have approached this Court, by way of instant writ petition, as cast under Article 226/227 of the Constitution of India, assailing the order dated 05.09.2019 (Annexure P-13), passed by respondent No.1, vide which, the statutory appeal preferred by them, has been dismissed, and also the order dated 19.04.2018 (Annexure P-10), rendered by the learned Maintenance Tribunal, Chandigarh, whereby, they were directed to vacate the house in question.

2. Learned counsel for the petitioners submits that, apparently, the learned Maintenance Tribunal passed the impugned order dated 19.04.2018, *ex parte*, thereby depriving the petitioners of adequate

2025:PHHC:139742



opportunity of hearing. He further submits that aggrieved by the order (supra), the petitioners preferred an appeal, raising various issues, which were touching the roots of the matter, but, surprisingly, none of them was considered by the learned Appellate Authority. Rather, the appeal was dismissed, only by referring to the object of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (for short, 'the Act of 2007'), vide order dated 05.09.2019. He asserts that the house in question was, in fact, owned by the grand-father of petitioner No.1, which was subsequently transferred in favour of his father, who executed a Will dated 24.03.2003 (Annexure P-1), during his lifetime. In terms the Will (supra), the house in question would be bequeathed in favour of mother of petitioner No.1, after the demise of his father, and post her lifetime, the same would be bequeathed in favour of petitioner No.1 and his brother, in equal shares.

3. He next contended that, on the basis of the Will (supra), the house in question was finally transferred on 15.12.2014 (Annexure P-3), in favour of respondent No.3, to which, petitioner No.1 also acceded to, by submitting indemnity bonds with the authorities concerned. However, immediately thereafter, on 21.01.2015, mother of petitioner No.1 transferred the property in favour of his younger brother. Thereafter, on 11.06.2015 (Annexure P-4), brother of the petitioner applied to the authorities concerned for transfer of the house in his name, which was finally given effect to on 24.08.2015. But, post transfer (supra), brother of petitioner No.1, realised that he could get petitioner No.1, along with his family, ousted from the house in question, only with the aid of the



provisions of the Act of 2007, and therefore, he re-transferred the property in favour of respondent No.3 on 29.12.2015. Thereafter, mother of petitioner No.1, on 30.07.2017, moved the application under the Act of 2007.

4. To lend credence to the version of the petitioners, he has produced a copy of a judgment and decree dated 09.01.2020, rendered by the learned Civil Judge (Junior Division), Chandigarh, in a civil suit preferred by petitioner No.1, wherein, it was held that he is the owner of property in question to the extent of 1/8th share. He submits that the decree (supra), has attained finality, as till date, it has not been challenged. While concluding his arguments, it is urged that in conspectus of the sequence of events, the matter at hand is, indeed, proxy litigation, at the instance of brother of petitioner No.1, who, in a fit of greed, actually intends to oust the petitioner from the house in question. Thus, the impugned orders are liable to be set aside.

5. Per contra, learned counsel for respondent No.3, while vociferously opposing the submissions made by learned counsel for the petitioners, submits that petitioners are interfering in day to day life of respondent No.3. Further, since the house in question is a self acquired property of respondent No.3, the petitioners cannot claim any right thereupon. He asserts that in the decree (supra), it was specifically observed that the house in question is not an ancestral property. In such circumstances, the application preferred by respondent No.3, seeking eviction of the petitioners, is maintainable. He concludes by submitting that petitioner No.2, had even initiated proceedings under the Protection



of Women from Domestic Violence Act, but the same were dismissed for want of prosecution, and remained inconclusive.

6. Learned counsel for the respondent-U.T., Chandigarh submits that there is no perversity or illegality in the impugned orders, and thus, the same deserve to be upheld.

7. This Court has heard submissions advanced on behalf of the parties.

8. It is a matter of record that that the learned Maintenance Tribunal had passed an *ex parte* order (supra). Further, the learned Appellate Authority has dismissed the statutory appeal preferred by the petitioners against the order (supra), without dealing with the issues raised therein. Rather, a perusal of the order dated 05.09.2019 (Annexure P-13), reveals that the learned Appellate Authority, barely taking note of the factual background and submissions advanced on behalf of both the parties concerned, dismissed the appeal, without examining the matter independently. At this juncture, again, it needs to be noticed that no finding was returned on any of the issues by the learned Appellate Authority, but dismissed the appeal, only by referring to the object and intent of the Act of 2007, in its concluding paragraph.

9. In the wake of the position sketched out above, this Court is of the considered opinion that the learned Appellate Authority ought to have recorded the findings, as to whether, the application preferred by respondent No.3 met the requirements, as prescribed under Sections 22 and 23 of the Act of 2007, which it, apparently, failed to. In such circumstances, this Court is not required to delve any further into the



merits of the case. Accordingly, the impugned order dated 05.09.2019 (Annexure P-13), passed by the learned Appellate Authority, is hereby **set aside**. The matter is remitted to the learned Appellate Authority, for decision afresh, in accordance with law, within a period of four months from the receipt of a certified copy of this order.

10. Needless to assert that before drawing a final order, the learned Appellate Authority shall afford adequate opportunity of hearing to the parties concerned.

11. With the abovesaid observations, the instant writ petition is **disposed of**.

(KULDEEP TIWARI)
JUDGE

08.10.2025

Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No