



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
WRIT PETITION NO. 1606 OF 2026 (GM-RES)

BETWEEN:

1. R PAVITHRA,
AGED ABOUT 44 YEARS
W/O LATE MAHADEVASWAMY
R/AT NO.B95
RADHAKIRSHNA NAGAR
TEACHER'S COLONY
OLD KESARE
MIT COLLEGE ROAD
MYSORE - 570 003.

...PETITIONER

(BY SRI. HARSHA V, ADVOCATE)

Digitally signed by
NAGARAJA B M
Location: HIGH
COURT OF
KARNATAKA

AND:

1. THE TRIBUNAL FOR MAINTENANCE AND
WELFARE OF PARENTS AND CITIZENS
THE ASSISTANT COMMISSIONER
MYSORE SUB-DIVISION
MYSORE - 560 001.
2. G. HEMA
AGED ABOUT 62 YEARS
W/O RAJU



R/AT NO.18/1, AJ BLOCK
N.R.MOHALLA
MYSORE - 570 007.

3. R.VENUGOPAL
AGED ABOUT 40 YEARS
S/O. RAJU
R/AT NO.3852/3
KARUNAPURA MAIN ROAD
GANDHINAGAR
MYSORE - 570 007.

...RESPONDENTS

(BY SMT. NAVYA SHEKAR, AGA FOR R1;
SRI. THIRIBHUVAN K, ADVOCATE FOR R2-
(CP NO.23750/2025);
SRI. SURYA B E, ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER BEARING MYSAC-MAG/SRCZ/6/2025 DATED
08/10/2025 PASSED BY THE RESPONDENT NO.1 AT
ANNEXURES-A AND ETC.,

THIS PETITION, COMING ON FOR DICTATING ORDERS,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned petition is filed by the petitioner-daughter calling in question the legality and correctness of the order passed by the Tribunal/respondent No.1, whereby the gift deed executed by respondent No.2-mother in favour of the petitioner came to be cancelled in exercise of powers under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "the Act"). The said order stands affirmed by the Appellate Authority/Deputy Commissioner.

2. The undisputed facts reveal that respondent No.2 is a retired Government school teacher and the absolute owner of the subject properties. Owing to matrimonial discord, she resided with the petitioner for a period of about three and a half years. It is the petitioner's case that on account of alleged harassment by her husband, respondent No.2 was advised by her children to



transfer the properties in their favour by way of gift, with an understanding that the rental income would be utilized for her benefit.

3. It is further contended that pursuant to the execution of the gift deeds, the petitioner and respondent No.3 (son) began collecting rent from different portions of the property. However, disputes arose thereafter, leading to allegations that the petitioner and respondent No.3 subjected respondent No.2 to mental harassment and failed to provide for her basic needs.

4. Aggrieved by the alleged neglect and ill-treatment, respondent No.2 invoked Section 23(1) of the Act before the Tribunal seeking cancellation of the gift deeds. The Tribunal, upon appreciation of the material on record, allowed the application and annulled the transfer. The said order having been affirmed in appeal, the petitioner is before this Court.



5. Learned counsel for the petitioner would vehemently contend that the Tribunal committed a grave error in cancelling the gift deed in the absence of any express stipulation in the document obligating the petitioner to maintain respondent No.2. It is argued that the gift was executed out of love and affection and, therefore, the essential ingredients of Section 23(1) of the Act are not satisfied.

6. Per contra, learned counsel appearing for respondent No.2 would place reliance on the judgment of the Hon'ble Apex Court in ***Sudesh Chhikara vs. Ramti Devi and Another***¹ and contend that the requirement of an express condition is not mandatory and the same can be inferred from the pleadings, surrounding circumstances, and conduct of the parties. Reliance is also placed on the judgment of this Court in ***Venkataiah vs. The State of Karnataka***² and the decision of the Delhi

¹ (2024) 14 SCC 225

² W.P.No.13313 of 2025



High Court in ***Tajinder Singh Bakshi v. Daljit Kaur***³ to contend that the beneficent object of the Act cannot be defeated by adopting a hyper-technical interpretation.

7. Heard learned counsel appearing for the petitioner and learned counsel for the respondents. In the light of the rival contentions, the following points arise for consideration:

(i) Whether the absence of an express recital in the gift deed regarding maintenance disentitles respondent No.2 from invoking Section 23(1) of the Act?

(ii) Whether the Tribunal was justified in annulling the gift deed on the basis of surrounding circumstances and conduct of the parties?

(iii) Whether interference is warranted under Article 226 of the Constitution of India?

³ W.P.(C) No.10854 of 2023



Finding on Point No.(i)

8. Section 23(1) of the Act contemplates that where a senior citizen has transferred property subject to the condition that the transferee shall provide basic amenities and physical needs, and such transferee fails to do so, the transfer shall be deemed to have been made by fraud, coercion or undue influence and is liable to be declared void.

9. The Hon'ble Apex Court in ***Sudesh Chhikara v. Ramti Devi*** (supra) has held that the twin conditions must be satisfied. However, a careful reading of the said judgment would indicate that the denial of relief therein was primarily on account of absence of pleadings and evidence regarding such condition.

10. A Co-ordinate Bench of this Court in ***Venkataiah v. State of Karnataka*** (supra), interpreting the dictum of the Apex Court, has categorically held that the condition of maintenance can be inferred from the



relationship between the parties, surrounding circumstances, and subsequent conduct, and need not necessarily be expressed in writing.

11. The Delhi High Court in ***Tajinder Singh Bakshi v. Daljit Kaur*** (supra) has elaborately held that insistence on an express recital would defeat the very object of the Act and that such conditions can be implicit, especially in familial transfers founded on trust and moral obligations.

12. This Court is in respectful agreement with the said view. The Act is a beneficial legislation intended to protect senior citizens from destitution and neglect. To insist upon a formal recital in every case would render the statutory protection illusory and defeat the legislative intent.

Accordingly, Point No.(i) is answered in the ***Negative.***



Finding on Point No.(ii)

13. This Court finds that the attending facts on hand squarely attract the ingredients of Section 23(1) of the Act, when tested on the touchstone of its object, scheme and underlying social purpose. The respondent No.2, a senior citizen and a retired Government school teacher, had transferred her self-acquired properties in favour of her son and daughter, thereby divesting herself of her proprietary rights, clearly reposing trust and legitimate expectation of care, protection and financial security at the hands of her children.

14. The material on record unmistakably demonstrates that pursuant to such transfer, the daughter has acquired the ground floor and the son the first floor, and both are admittedly deriving rental income from the very property which originally belonged to the mother. However, in a striking and distressing contrast, the mother is now compelled to reside in a rented accommodation,



bereft of both shelter in her own property and the benefit of income arising therefrom. These circumstances, when cumulatively assessed, leave no manner of doubt that the transfer was intrinsically premised upon an implied assurance of care and maintenance, which forms the very substratum of Section 23. The statute, being a beneficial and remedial legislation, cannot be rendered otiose by insisting upon a formal or express recital of such obligation in the deed of transfer. The absence of an explicit covenant is inconsequential when the conduct of the transferees and the resultant destitution of the transferor vividly establish a breach of the foundational expectation underlying the transaction.

15. The fact that the petitioner–daughter, who herself owns an independent residential house, continues to enjoy rental income from the gifted property while allowing her aged mother to languish in a rented house, is a glaring instance of failure to honour not only a moral obligation but also a statutorily recognized duty. The non-



contestation by the son further fortifies the inference that the transfer has resulted in abandonment of the senior citizen. In such a fact situation, the legislative intent behind Section 23 to provide a swift and efficacious remedy to undo transfers that operate to the detriment of senior citizens must be given full effect. This Court is therefore of the considered view that the breach of the implicit condition of care and maintenance stands established from the surrounding circumstances and subsequent conduct, thereby justifying annulment of the gift deeds and restoration of possession to the second respondent.

16. The conduct of the petitioner, who admittedly owns an independent residential house and yet permits her aged mother to reside in a rented accommodation, speaks volumes and clearly establishes failure to discharge the moral and statutory obligation.



17. The Tribunal cognisant of glaring instance where a senior citizen, having transferred her self-acquired property to her children, is left to fend for herself without adequate means for sustenance was justified in annulling the transfer. The Tribunal, on appreciation of oral and documentary evidence, has recorded a finding of fact that the transfer was premised on an expectation of care and maintenance, which has been breached. The said finding is neither perverse nor suffers from jurisdictional error. Therefore, the Tribunal was justified in invoking Section 23(1) and annulling the gift deed.

Accordingly, Point No.(ii) is answered in the ***Affirmative.***

Finding on Point No.(iii)

18. It is trite that while exercising jurisdiction under Article 226, this Court does not sit in appeal over findings of fact. Interference is warranted only if the impugned orders are perverse or suffer from patent illegality. The



Hon'ble Apex Court in ***Ajay Singh vs. Khacheru***⁴ has reiterated that re-appreciation of evidence is impermissible unless findings are perverse.

19. In the case on hand, both the Tribunal and the Appellate Authority have concurrently held against the petitioner on the basis of cogent material. This Court finds no perversity or illegality warranting interference. The facts of the present case poignantly reflect the vulnerability of a senior citizen who, despite owning property, is compelled to live in a rented house after transferring her assets to her children. The Act is a social welfare legislation intended to remedy precisely such situations.

20. The petitioner, having been the beneficiary of the gift, cannot shirk her obligation viz., legal, moral, and social, to ensure the well-being of her mother. The beneficent provisions of the Act must be given a purposive

⁴ SLP (Civil) Nos.34407-34408 of 2013



interpretation to advance its object. This Court is therefore of the considered view that no grounds are made out to interfere with the concurrent findings recorded by the authorities. Accordingly, Point No.(iii) is answered in the ***Negative.***

21. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The writ petition is ***dismissed.***

(ii) The order dated 08.10.2025 passed by the Tribunal/respondent No.1 vide Annexure-A annulling the gift deed, as affirmed by the Appellate Authority, is hereby upheld.

(iii) No order as to costs.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

CA
List No.: 1 Sl No.: 94