



CNR: KAHC010134502019

NC: 2026:KHC:48283
WP No. 20109 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 20109 OF 2019 (GM-RES)

BETWEEN:

1. SMT. G. SARASWATHI
W/O SRI M.T. LAKSHMANA
AGED ABOUT 40 YEARS
RESIDING AT #10/2
26TH MAIN ROAD, GIRINAGAR
T BLOCK
BENGALURU-560085

...PETITIONER

(BY SRI. PRADEEP .J.S, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY
ITS CHIEF SECRETARY
AMBEDKAR VEEDHI
BENGALURU-560001.
2. THE ASSISTANT COMMISSIONER
BENGALURU NORTH SUB DIVISION
MAINTENANCE TRIBUNAL
BENGALURU-560001.
3. SRI. R. GOVINDARAJU
S/O LTE RAMAIAH
AGED ABOUT 64 YEARS
R/A #10/2, 50 FEET ROAD
26TH MAIN, T BLOCK

Digitally signed by
CHATTARA A
Location: HIGH
COURT OF
KARNATAKA



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GIRINAGARA
BENGALURU-560085

...RESPONDENTS

(BY SRI. MANJUNATHA RAYAPPA, AGA FOR R1 AND R2;
SRI. N.R. NAIK, ADVOCATE FOR R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE ENTIRE RECORDS FROM THE OFFICE OF THE R-2 PERTAINING TO THE DISPOSAL OF CASE NO.MSC/CR/12/2018-19 DATED 07.01.2019, QUASH ANNEXURE-T THE IMPUGNED ORDER OF THE R-2 DATED 07.01.2019 IN CASE NO.MSC/CR/12/2018-19 AND FURTHER DISMISS THE PETITION OF THE R-3 BEFORE THE R-2 IN NO.MSC/CR/12/2018-19.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The petitioner, who is the daughter of respondent No.3, is before this Court calling in question the order dated 07.01.2019 passed by respondent No.2-Assistant Commissioner, whereby the petitioner has been directed to pay maintenance to her father/respondent No.3 at the rate of Rs.8,000/- per month.

2. Heard the learned counsel appearing for the petitioner, learned Additional Government Advocate



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appearing for respondent Nos.1 and 2 and learned counsel appearing for respondent No.3. Perused the records and the material placed before this Court.

3. Learned counsel appearing for the petitioner would submit that the claim made by respondent No.3 for maintenance is wholly untenable in view of the judgment and decree rendered by the competent Civil Court in O.S.No.2283/2016, a partition suit instituted by respondent No.3 himself. He would contend that the Civil Court has conclusively adjudicated the rights of the parties in respect of the properties in question and has held that respondent No.3 is not entitled to claim any share therein.

4. Learned counsel would further contend that the properties in question originally belonged to the mother of the petitioner, who was their absolute owner, and that the petitioner derived her right, title and interest in the properties through a registered Gift Deed dated 17.07.2009 executed by her mother. He would submit that



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one of the properties was independently purchased by the petitioner. According to the learned counsel, the Civil Court, while adjudicating the partition suit, has negated the claim of respondent No.3 and has categorically held that he has no right in the properties in question.

5. Learned counsel would further submit that notwithstanding the dismissal of the partition suit, respondent No.3 continues to reside in a portion of the property and is also collecting the rents generated from the portions let out to tenants. He would point out that the decree rendered in O.S.No.2283/2016 specifically restrains respondent No.3 from collecting rents from the tenants in respect of the suit schedule properties. It is, therefore, contended that respondent No.3 cannot, on the one hand, claim maintenance from the petitioner and, on the other hand, continue to derive rental income from the very properties in respect of which his claim has been negated by the competent Civil Court.



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6. Learned counsel for the petitioner would also point out that, pursuant to the directions issued by this Court, a report has been secured through the learned Additional Government Advocate, which indicates that respondent No.3 is in fact collecting the rents. However, on instructions, learned counsel for the petitioner submits that the petitioner has no objection to respondent No.3 collecting the rents from the properties during his lifetime.

7. *Per-contra*, learned counsel appearing for respondent No.3 would vehemently contend that respondent No.3 is a senior citizen who has been neglected by his daughter and that the Tribunal was, therefore, justified in directing the petitioner to pay monthly maintenance of Rs.8,000/-. He would submit that the order passed by respondent No.2 does not call for interference at the hands of this Court and would seek dismissal of the writ petition.



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8. Having heard the learned counsel for the parties and having perused the records, the following point arises for consideration:

"Whether the order dated 07.01.2019 passed by respondent No.2 directing the petitioner to pay maintenance of Rs.8,000/- per month to respondent No.3 is sustainable in view of the judgment and decree rendered by the competent Civil Court in O.S.No.2283/2016?"

Finding on point for consideration:

9. Before proceeding to examine the rival contentions, it would be apposite to extract the operative portion of the judgment rendered by the competent Civil Court in O.S.No.2283/2016:

"ORDER

The suit of the plaintiff so far partition is concerned is dismissed.

The defendants are hereby restrained by way of permanent injunction from dispossessing the plaintiff from the suit schedule property. It is hereby clarified that this order will not entitle the plaintiff from collecting the rents from tenants in respect of the suit schedule item Nos.1 and 2 properties.



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Looking into the relationship of the parties to the suit, there is no any order as to the costs.

Draw decree accordingly."

10. The tenor of the aforesaid decree is clear. The partition suit instituted by respondent No.3 has been dismissed. The only protection extended to respondent No.3 by the Civil Court is against his dispossession from the suit schedule properties. At the same time, the Civil Court has expressly clarified that such protection would not confer upon respondent No.3 any right to collect rents from the tenants occupying the suit schedule properties.

11. The aforesaid finding assumes significance in the present proceedings. The claim of respondent No.3 for maintenance has to be considered in the backdrop of the adjudication already made by the competent Civil Court concerning the very properties which form the foundation of the rival claims of the parties. The Civil Court has dismissed the suit for partition instituted by respondent No.3 and has recognized the petitioner's absolute right,



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title and interest over the properties in question. Consequently, respondent No.3, having failed to establish any right, title or interest in the said properties, lacked the locus to invoke Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in respect of the very same properties.

12. It is also not in dispute that the petitioner claims title to the properties through the registered Gift Deed dated 17.07.2009 executed by her mother, who was the absolute owner thereof, apart from the property which was admittedly acquired by the petitioner in her own right. The rights flowing from the said transactions have been considered in the civil proceedings and respondent No.3 has failed to establish any right or share in the properties.

13. What is of considerable significance is that, notwithstanding the decree of the Civil Court expressly disentitling respondent No.3 from collecting rents, the material placed before this Court indicates that respondent



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No.3 is nevertheless collecting the rents from the properties. The report secured through the learned Additional Government Advocate lends support to the said position. More significantly, the petitioner, notwithstanding her legal entitlement, has voluntarily consented to respondent No.3 collecting the rents during his lifetime.

14. In the circumstances, the question that arises is whether respondent No.3 could nevertheless invoke the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and seek an order directing the petitioner to pay a fixed monthly maintenance of Rs.8,000/-.

15. This Court is of the considered view that the answer has to be in the negative. The claim for maintenance cannot be examined in isolation, divorced from the rights already adjudicated between the parties by a competent Civil Court. The fact that respondent No.3 is a senior citizen, by itself, cannot result in an automatic



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direction against the petitioner to pay maintenance, particularly when the material on record demonstrates that respondent No.3 is already deriving rental income from the properties and that the petitioner has voluntarily permitted him to continue receiving such rents during his lifetime.

16. The proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 cannot be permitted to operate in a manner contrary to or in disregard of the adjudication rendered by the competent Civil Court. The Civil Court has already determined the rights of the parties in respect of the properties and has specifically clarified that respondent No.3 has no entitlement to collect rents from the tenants. In spite of the same, the petitioner has chosen to permit respondent No.3 to collect the rents during his lifetime.

17. Therefore, in the peculiar facts and circumstances of the present case, the direction issued by



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respondent No.2 requiring the petitioner to pay a further sum of Rs.8,000/- per month as maintenance cannot be sustained. The Tribunal, while passing the impugned order, has failed to take into consideration the effect of the judgment and decree rendered in O.S.No.2283/2016 and the undisputed circumstances relating to the rental income being received by respondent No.3.

18. This Court is, therefore, of the considered opinion that the impugned order suffers from a fundamental infirmity and cannot be sustained in law. Accordingly, the point for consideration is answered in the '**negative**'.

19. For the foregoing reasons, the writ petition deserves to be allowed. Hence, this Court proceeds to pass the following:

ORDER

- (i) The writ petition is **allowed**.



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- (ii) The order dated 07.01.2019 passed by respondent No.2-Assistant Commissioner in Case No.MSC/CR/12/2018-19 is hereby quashed and set aside.
- (iii) In view of the voluntary statement made by the petitioner through her learned counsel, respondent No.3 shall be entitled to collect the rents from the suit schedule properties during his lifetime.
- (iv) It is made clear that this order shall not be construed as conferring any right, title or interest upon respondent No.3 in the suit schedule properties contrary to the judgment and decree rendered by the competent Civil Court in O.S.No.2283/2016.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**