



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.733 OF 2022 (GM-RES)

BETWEEN:

MRS. CAROBINA FERRAO GUREIN
W/O. JOHN CHRISTOPHER GUREIN
AGED ABOUT 77 YEARS
RESIDING AT FRAGRANCE D'SOUZA
COMPOUND
NEAR PUTTUR RAILWAY STATION-574 142.

...APPELLANT

(BY SRI CYRIL PRASAD PAIS, ADVOCATE)

AND:

1. MRS. DEPHNY GLADYS LOBO
W/O. FREDERICK LOBO
AGED ABOUT 50 YEARS.

2. MR. FREDICK LOBO
S/O. PAUL LOBO
AGED ABOUT 61 YEARS

RESPONDENT NOS.1 AND 2 ARE
RESIDING AT D.NO. 1-330
NEAR HOLY FAMILY SCHOOL,
BAJEPE, MANGALURU-574 142
DAKSHINA KANNADA DISTRICT.

3. ASSISTANT COMMISSIONER AND PRESIDENT
SENIOR CITIZEN MAINTENANCE TRIBUNAL
MANGALURU SUB-DIVISION
MANGALURU-575 001.

...RESPONDENTS

(BY SRI CHANDRANATH ARIGA, ADVOCATE, FOR R-1 AND R-2;
SRI KHAMROZ KHAN, A.G.A., FOR R-3)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 22.03.2022 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN WRIT PETITION NO.6720 OF 2016 (GM-RES).

THIS WRIT APPEAL IS COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

Heard the learned counsel appearing on either side. We have also perused the material on record and have considered the judgment which has been rendered by the learned Single Judge in the instant matter.

2. The learned counsel appearing for the appellant submits that the appellant executed a General Power of Attorney dated 31.08.2009 in favour of respondent No.1 authorising her to purchase property on behalf of the appellant. Pursuant thereto, the appellant purchased a property situated at Bajpe Village, Mangaluru Taluk, under a registered Sale Deed dated 26.11.2009. The entire sale consideration was paid by the appellant, who is the absolute owner of the property.



The appellant subsequently permitted the respondents to reside in the property. Upon disputes arising between the parties, she revoked such permission by legal notice dated 08.04.2015 and called upon the respondents to vacate the premises. When the respondents continued in occupation and allegedly prevented the appellant from accessing the property, she lodged a Police complaint and initiated proceedings for recovery of possession.

3. The respondents thereafter instituted O.S. No.1225/2015 seeking an injunction against the appellant, while the appellant filed O.S. No.439/2015 seeking declaration of title, recovery of possession, damages, and mesne profits. The appellant invoked the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the competent Authority.

4. While the said proceedings were pending, the respondents challenged them before this Court contending that the appellant was not Indian citizen and was therefore not entitled to invoke the provisions of the Act. The appellant filed objections asserting that, as an NRO/Overseas Citizen



protected under Sections 7A and 7B of the Citizenship Act, 1955, she was entitled to maintain the proceedings.

5. However, by order dated 22.03.2022, the learned Single Judge held that the appellant was a foreign citizen and consequently, allowed the writ petition resulting in the dismissal of the proceedings initiated by the appellant before the competent Authority.

6. Having considered the contentions advanced, we are of the opinion that the issue raised herein is with regard to the right of a senior citizen to approach the appropriate Authority under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'Act') for the rights that are provided under the provisions of the Act. The preamble of the Act states that the Act is *'an Act to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto'*.



7. The statement of objects and reasons of the Act reads as follows:

"1. Traditional norms are values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

*2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting up oldage homes for providing maintenance to the indigent older persons. [Satbir vs. Tribunal, **(2016) 3 DMC 550: (2016) 2 PLR 383: (2016) 162 AIC 618**]."*

8. The learned counsel appearing for the appellant would contend that the definition of 'Senior citizen' in the Act would not completely preclude a person, who is of Indian origin, but who has accepted another citizenship, but owns property in the country from availing of the benefits of the Act. It is contented



that such a narrow definition would amount to the objects of the Act being defeated. It is submitted that the appellant is an Overseas Citizen of India and is therefore entitled to all the benefits except those specified under Section 7B(2) of the Citizenship Act, 1955. She has never renounced the Card issued to her and has not lost her status as an Overseas Citizens in any manner known to law.

9. The learned counsel for the respondents, on the other hand, contends that the definition of 'Senior citizen' at Section 2(h) of the enactment is very specific and only a person being a citizen of India, who has attained the age of sixty years or above can approach the Authority under the Act.

10. The learned Single Judge has accepted this contention and has found that since the senior citizen is clearly defined to mean a person being a citizen of India, who has attained the age of sixty years or above, the provisions of the Act has no application to the appellant.

11. Having considered the contentions advanced on either side and having perused the provisions of the Act and intention



thereof, we are of the opinion that the said interpretation is a narrow interpretation, which tends to defeat the very object of the Act. The facts of the instant case and the documents produced would show that the appellant is a person of Indian origin, who was in possession of an Overseas Citizenship of India card. The contention of the respondents is that the appellant has accepted the United Kingdom citizenship and possesses a United Kingdom Passport and therefore, will not be an Indian citizen anymore. We are of the opinion that the said contention is only to be discarded in the facts and circumstances of the instant case. The right to life and right to live with dignity being traceable to Article 21 of the Constitution of India, which refers specifically to any person, the contention that an aged person of Indian origin cannot approach an Authority specifically empowered under an enactment of this nature to consider her grievances is to be seen as a hyper-technical objection. The appellant is admittedly a person of Indian origin and the definition under the Act cannot preclude her from availing the reliefs under a beneficial legislation.



12. In the above view of the matter, we are of the opinion that the finding of the learned Single Judge is not justified and the same is, therefore, set aside. The parties are referred to the third respondent, the Authority empowered under the Act for adjudication on the issues concerned. It is made clear that we have not expressed any opinion on the merits of the case.

13. The parties shall mark appearance before respondent No.3 on 22.06.2026 without awaiting any further notice and respondent No.3 shall endeavor to pass orders on the application preferred by the appellant, without delay.

Accordingly, the writ appeal is ***allowed***.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**