



CNR: KAHC010381092025

NC: 2026:KHC:42321
WP No. 17080 of 2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 17080 OF 2025 (GM-RES)

BETWEEN

SRI M.A. PREM KUMAR
AGED ABOUT 64 YEARS
S/O. M.M. ANANDRAM
R/A. NO.15, PAMPA MAHAKAVI ROAD,
SHANKARAPURAM,
BENGALURU 560 004

... PETITIONER

(BY SRI. DHANANJAY JOSHI, SENIOR COUNSEL FOR
SRI. SUDHINDRA MURTHY.V., ADVOCATE)

AND

1. ASSISTANT COMMISSIONER
BANGALORE NORTH SUB DIVISION,
BENGALURU-560001.
2. SRI. M.M. ANANDRAM
S/O. LATE M.L. MANJANATHA SETTY
AGED ABOUT 92 YEARS,
R/A. NO.15, PAMPA MAHAKAVI ROAD,
SHANKARAPURAM,
BENGALURU 560 004
3. NITHA MP,
D/O. SRI. PREM KUMAR MA,
AGED ABOUT 30 YEARS,
R/A. NO.1414, 23RD MAIN ROAD,
NEAR BDA COMPLEX, BANASHANKARI II STAGE,
BENGALURU 560 070

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



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4. VARSHA M.P.,
D/O. PREM KUMAR MA,
AGED ABOUT 27 YEARS
R/A. NO.15, PAMPAMAHAKAVI ROAD,
SHANKARPURAM, BASAVANAGUDI,
BENGALURU 560 000

.... RESPONDENTS

(BY SRI. MOHAMMED JAFAR SHAH., AGA FOR R1;
SRI. B.M. ARUN., ADVOCATE FOR CAV/R2;
SRI. SHARAN B.T., ADVOCATE FOR R3 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE RESPONDENT NO.1 DATED 16.05.2025 IN CASE NO. MSC/CR/13/2022 PRODUCED AT ANNEXURE-A AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 14.07.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking for the following reliefs:

- a. *Set aside the impugned order passed by the Respondent No.1 dated 16.05.2025 in Case No.MSC/CR/13/2022 produced at Annexure-A;*
- b. *Allow costs of this Petition.*
- c. *Pass any such order as this Hon'ble Court deems fit with regard to the facts and circumstances of this case in the interest of justice.*



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2. Respondent No.2 is the father of the Petitioner and grandfather of Respondents No.3 and 4.
3. The grandfather had filed an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('Senior Citizens Act' for short), seeking for the following reliefs:

"a) Declare that the Release Deed dated 17.02.2021 executed by the Petitioner In favour of the Respondent, in respect of his 50% undivided interest in the Schedule 'A' Property, which is registered as 05795-2020-21 in Book I and Document No.CMP-1-stored in CD No.CMPD741, in the office of the Sup Registrar, Basavanagudi (Chamarajpet), Bengaluru, es Void.

b) Direct the Respondent to refund the amount of Rs.2,17,12,500/- (Rupees Two Crore Seventeen Lakh Twelve Thousand and Five Hundred Only) morefully described in Schedule 'B' Property, to the Petitioner.

c) Restrain the Respondent, his wife and children and any person claiming under them, from interffering with the peaceful possession of the Schedule 'C' Property by the Petitioner, his daughters and their assistants.

d) Grant such other relief/s as deemed fit in the circumstances of the case."

4. The petitioner is the only son of respondent No.2. The proceedings initiated by respondent No.2 came to be partly allowed by the Assistant Commissioner by the impugned order dated 16.05.2025. By the said order, the registered Release Deed dated 17.02.2021 bearing Document No.CMP-1-05795/2020-21 was declared null and void and



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consequently cancelled. As a necessary consequence, the Gift Deed dated 03.01.2022 executed by the petitioner in favour of respondent Nos.3 and 4, registered as Document No.CMP-1-06258/2021-22, was also declared null and void and cancelled. The Assistant Commissioner further restrained the petitioner and respondent Nos.3 and 4 from interfering with the peaceful possession and enjoyment of respondent No.2 over the entire ground floor portion, including the car parking space in the cellar, of the property bearing BBMP No.15 (PID No.49-49-15), Pumpa Mahakavi Road, Shankarapuram, Bengaluru-560004. However, the prayer seeking refund of Rs.2,17,12,500/- described in Schedule 'B' came to be rejected. Aggrieved by the aforesaid order, the petitioner has presented the present writ petition before this Court.

5. The submission of Sri Dhananjay Joshi, learned Senior Counsel appearing for the petitioner is that:

5.1. The petitioner's grandfather, late Sri.M.L.Manjunatha Setty, had inherited and acquired several immovable properties, which are Hindu joint family properties. The nature of these properties was decided in



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O.S.No.405/1980 and affirmed in RFA.No.376/1992. The finding that they are joint family properties has attained finality.

- 5.2. He submitted that respondent No.2 and his brothers sold several joint family properties to third parties without effecting a partition and without recognising the petitioner's share. Despite repeated requests by the petitioner, respondent No.2 did not partition the properties and continued to alienate them.
- 5.3. Therefore, the petitioner filed O.S.No.639/2021 before the VII Additional City Civil Judge, Bengaluru, seeking partition and separate possession against respondent No.2 and other members of the family. In that suit, the Civil Court granted an interim order restraining the defendants from alienating or creating encumbrances over the suit schedule properties.
- 5.4. Learned Senior Counsel submitted that after receiving summons in the suit, respondent No.2 approached the petitioner for an amicable settlement. Under the settlement, respondent No.2 agreed to release his 50% undivided



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share in the residential property situated at No.15, Pampa Mahakavi Road, Shankarapuram, Bengaluru, in favour of the petitioner. He also agreed to pay the petitioner's lawful share in the sale proceeds of the Hospet Estate.

5.5. In pursuance of the settlement, respondent No.2 executed a registered Release Deed dated 17.02.2021 in favour of the petitioner. A Memorandum of Understanding was also executed on the same day recording the terms of settlement. Thereafter, on 19.02.2021, a registered Memorandum of Understanding was executed under which Respondent No.2 agreed to pay the petitioner's share in the sale proceeds of the Hospet Estate, and the agreed amount was paid by demand draft.

5.6. It was submitted that the Release Deed, the Memorandum of Understanding and the payment made under them formed one composite family settlement. Acting upon this settlement, the petitioner withdrew O.S. No.639/2021 on 18.02.2021. Therefore, the transfer in favour of the petitioner was not a gratuitous gift but was made in settlement of



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the petitioner's existing claims in the joint family properties.

- 5.7. Learned Senior Counsel further submitted that the proceedings under Section 23 of the Senior Citizens Act were not initiated voluntarily by Respondent No.2. According to him, they were filed at the instance of the petitioner's sisters, who influenced respondent No.2 after one of them started residing with him.
- 5.8. He submitted that both Respondent No.2 and the petitioner entered the witness box and were extensively cross-examined. However, the Assistant Commissioner failed to consider the evidence and the admissions made during cross-examination while passing the impugned order.
- 5.9. He further submitted that the petitioner has been looking after respondent No.2 for more than forty years. Although the relationship between them has become strained, respondent No.2 continues to reside in the same house. The petitioner continues to provide him with a cook, domestic help,



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medicines, payment of utility bills, property taxes and all other day-to-day necessities.

5.10. Learned Senior Counsel submitted that the Release Deed does not contain any condition requiring the petitioner to maintain respondent No.2. Even so, the petitioner has been maintaining him. Therefore, there is no failure to provide maintenance or basic amenities so as to attract Section 23 of the Senior Citizens Act.

5.11. He also submitted that the burden of proving failure to provide maintenance is on respondent No.2, who invoked Section 23. The Assistant Commissioner wrongly placed the burden on the petitioner. In any event, the petitioner produced CCTV footage and photographs to show that respondent No.2 had free access to all parts of the house and was enjoying all the available amenities. This evidence has not been considered.

5.12. Learned Senior Counsel further submitted that respondent No.2 had earlier gifted valuable joint family properties to the petitioner's sisters without the consent of the petitioner. According



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to him, the petitioner, though the only son, was not given any property until the Release Deed was executed as part of the family settlement.

5.13. He submitted that by the impugned order, the Assistant Commissioner has virtually partitioned the residential property by granting respondent No.2 exclusive possession of the entire ground floor and restraining the petitioner from interfering with it. Such a direction amounts to partitioning the property, which is beyond the powers conferred under the Senior Citizens Act. Elaborating this submission, he pointed out that the kitchen, living room, entrance, toilets and washing area are all situated on the ground floor, while the first floor consists mainly of bedrooms. Therefore, if the petitioner is denied access to the ground floor, he cannot practically reside in the house. He also submitted that the petitioner himself is a senior citizen and has undergone major cardiac surgery. These circumstances have not been considered by the Assistant Commissioner.



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- 5.14. Referring to the house plan produced at Annexure-L, learned Senior Counsel submitted that respondent No.2 occupies the largest room in the house with an attached veranda, washroom and toilet. He also has unrestricted access to the kitchen and all common areas. Therefore, the allegation that respondent No.2 has been denied accommodation or amenities is without basis.
- 5.15. Finally, he submitted that Section 23 of the Senior Citizens Act can be invoked only when the transferee fails to provide the transferor with the basic amenities and physical needs. In the present case, respondent No.2 continues to reside in the transferred property and enjoys all the necessary facilities. There is no material to show that he has been neglected or deprived of maintenance. Therefore, according to him, the Assistant Commissioner has wrongly invoked Section 23 of the Act, and the impugned order is liable to be set aside.
- 5.16. In this regard, the learned Senior Counsel relies upon the decision in ***Kamalakant***



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Mishra V. Additional Collector and Others,¹

more particularly paras 4.8, 5 and 6 thereof, which are reproduced hereunder for easy reference.

"4.8. The High Court vide order dated 25.04.2025 allowed the petition observing that the Tribunal does not have the jurisdiction to pass an order for vacation of the property against a senior citizen.

5. We have heard the learned counsel for the parties and have gone through the material placed on record.

6. The High Court in allowing the appeal has proceeded on the presumption that the Respondent is also a senior citizen as per section 2(h) of the Act, as his date of birth is 04.07.1964. It observed that the Tribunal could not have allowed appellant's complaint since it was made against another senior citizen. This in our view is erroneous. The record shows that the appellant had moved an application before the Tribunal on 12.07.2023 and at that point in time, the Respondent's age was 59 years. Relevant date for consideration would be the date of filing the application before the Tribunal."

5.17. By relying on ***Kamalakant Mishra's*** case, learned Senior Counsel submitted that the Hon'ble Supreme Court held that the relevant date for determining whether a person is a senior citizen is the date on which the application is filed before the Tribunal. He submitted that in the present case, the

¹ 2025 SCC OnLine SC 2077



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petitioner had already become a senior citizen on the date when respondent No.2 filed the application under Section 23 of the Senior Citizens Act. Therefore, according to him, the Tribunal could not have exercised jurisdiction under Section 23 of the Act against the petitioner.

5.18. Learned Senior Counsel relies upon the decision in ***Urmila Dixit Vs. Sunil Sharan Dixit and Others***,² more particularly paras 9 and 12 thereof, which are reproduced hereunder for easy reference:.

9. *This Court in K.H. Nazar v. Mathew K. Jacob [K.H. Nazar v. Mathew K. Jacob, (2020) 14 SCC 126] reiterated the above expositions and stated that : (SCC pp. 135-36, paras 11 & 13)*

"11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. [Bharat Singh v. New Delhi

² (2025) 2 SCC 787



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Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]

13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48 : (2008) 237 CLR 285] , Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly."

(emphasis supplied)

12. *It is in the above background that we must proceed to examine the Act. The Statement of Objects and Reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in S. Vanitha v. Commr. [S. Vanitha v. Commr., (2021) 15 SCC 730] , is:*

"Traditional norms and 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



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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."

5.19. By relying on ***Urmila Dixit's*** case, learned Senior Counsel submitted that the Senior Citizens Act is a beneficial legislation and, therefore, its provisions must be interpreted in a manner that advances the object of the Act. He submitted that while interpreting such a statute, the Court must identify the mischief which the legislation seeks to remedy and adopt an interpretation that furthers that object.

5.20. He further submitted that the object of the Act is to protect and provide relief to senior citizens. Therefore, where both the applicant and the respondent are senior citizens, the provisions of the Act cannot be invoked by one



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senior citizen to obtain relief against another senior citizen. According to him, respondent No.2 could not have invoked Section 23 of the Act against the petitioner, who was also a senior citizen on the date of the application.

5.21. He relies upon the decision of the Hon'ble Bombay High Court in ***Vimal Dagadu Kate & Anr. Vs. State of Maharashtra & Ors***³, more particularly para 4 thereof, which is reproduced hereunder for easy reference:

"4. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that Respondent No.2 filed proceedings under the Act for seeking eviction of the Petitioners from the premises located on first floor of the slum structure. It is an undoubted position that Respondent No.2 herself resides in the ground floor premises and her real grouse is that the Petitioners have encroached upon the first floor premises of the structure. This clearly appears to be proceedings for recovery of possession of first floor premises. which in my view cannot be filed by invoking the provisions of the Act. The proceedings appear to my mind in the nature of suit for recovery of possession of first floor premises, which could not have been entertained and decided by the Tribunal. To make the case of Respondent No.2 worse, Petitioner No.1 is her sister and also a senior citizen. Jurisdiction of Maintenance Tribunal cannot be invoked by one senior citizen to recover possession of premises from another senior citizen. Petitioner No.1 is admittedly not supposed to maintain Respondent

³ WP.No.882/2024 dtd. 10.03.2025



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No.2. Therefore jurisdiction of the Tribunal could not have been invoked to seek recovery of possession of first floor premises from the Petitioners. In Summary Inquiry conducted by the Tribunal, complicated questions about right of an occupier to possess first floor premises cannot be adjudicated. Such adjudication can be undertaken only before a Civil Court. In my view therefore, the present case involves gross abuse of jurisdiction of the Tribunal which is utilized for the purpose of securing possession of first floor premises from one senior citizen by another senior citizen."

5.22. By relying on **Vimal Dagadu Kate's** case, learned Senior Counsel submitted that the Hon'ble Bombay High Court has held that the jurisdiction of the Tribunal under the Senior Citizens Act cannot be invoked by one senior citizen against another senior citizen. He submitted that disputes relating to possession of property between two senior citizens cannot be decided by the Tribunal by invoking the provisions of the Act.

5.23. He further submitted that the Tribunal exercising jurisdiction under Section 23 of the Senior Citizens Act is not a substitute for, nor an alternative to, a Civil Court exercising jurisdiction under Section 31 of the Specific Relief Act, 1963. According to him, where the



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dispute involves cancellation of documents, declaration of title or adjudication of civil rights, such questions must be decided only by a competent Civil Court and not by the Tribunal constituted under the Senior Citizens Act.

5.24. Section 31 of the Specific Relief Act, 1963, is reproduced hereunder for your reference.

"31. When cancellation may be ordered.—(1)
Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation."

5.25. Placing reliance on Section 31, learned Senior Counsel submitted that only a competent Civil Court has the power to declare a document void or voidable and order its cancellation. According to him, the Tribunal constituted under the Senior Citizens Act cannot exercise such powers in summary proceedings under Section 23 of the Act.



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5.26. He further submitted that the Tribunal is not intended to decide complicated questions of fact or title arising out of disputed transactions. It is neither equipped nor empowered to conduct a full-fledged trial where the validity of a transfer depends upon several disputed facts. In the present case, the Release Deed was executed as part of a family settlement arising out of O.S.No.639/2021 and not merely on the assurance that respondent No.2 would be maintained. Therefore, according to him, the dispute could only be decided by a Civil Court and not by the Tribunal while exercising powers under Section 23 of the Act.

5.27. Learned Senior Counsel submitted that the Release Deed was supported by consideration and was not executed merely out of love and affection. He reiterated that after the petitioner filed O.S.No.639/2021, the Civil Court granted an interim order on 09.02.2021 restraining the defendants, including respondent No.2, from alienating the suit properties. Thereafter, respondent No.2 entered into a Memorandum of Understanding with the petitioner on 17.02.2021, under which the parties agreed to



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settle their disputes. On the same day, respondent No.2 executed the Release Deed in favour of the petitioner. Subsequently, on 19.02.2021, the parties executed a registered Memorandum of Understanding recording that the petitioner had withdrawn O.S.No.639/2021 in view of the properties and money allotted to him under the settlement. He submitted that these documents formed part of one composite settlement, but this aspect has not been considered by the Assistant Commissioner.

5.28. He further submitted that after becoming the absolute owner under the Release Deed, the petitioner executed a registered Gift Deed dated 03.01.2022 in favour of respondent Nos.3 and 4, who are his daughters. According to him, once the property had been transferred by the petitioner to third parties, the Tribunal could not exercise powers under Section 23 of the Senior Citizens Act to cancel the subsequent transfer. He submitted that the power under Section 23 can be exercised only so long as the property continues to remain with the original transferee from the senior



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citizen, and not after it has been validly transferred to third parties.

5.29. He relies upon the decision of a Co-ordinate Bench of this Court in ***Dharyappagouda Patil Vs. The State of Karnataka and Others***,⁴ more particularly paras 6, 7, 8 and 12 thereof which are reproduced hereunder for easy reference:

"6. The primary objective of Section 23 of the Act is to protect senior citizens from being deprived of their property without receiving necessary support from the transferee. This provision is designed to ensure that transfers made with the expectation that the transferee will provide basic needs and amenities are honored, failing which the transfer can be declared void.

7. In the current matter, Respondent No. 3 was a party to a suit in O.S.No.15/2012, which ended in a compromise. Following this, a fresh partition was effected, and the petition property was allotted to Basavaraj, the son of Respondent No. 3, through a registered partition deed. After Basavaraj's demise, Respondents 4 to 8, who are Basavaraj's widow and children, inherited the petition property. Subsequently, Respondents 4 to 8 sold the petition property to the petitioner under a registered sale deed dated 22/08/2023 for valuable consideration. Based on the details provided and the provisions of Section 23 of the Act, the case presents a complex scenario that must be carefully analyzed in light of the legislative intent and judicial interpretations of the Act.

⁴ WP.No.101705/2024 dt. 02.07.2024



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8. *The petition property was transferred through a registered partition deed to Basavaraj. Upon his death, the property was inherited by his legal heirs (Respondents 4 to 8) and later sold to the petitioner. Respondent No. 3 is not the current owner of the petition property. The property was not transferred by Respondent No. 3 but was part of the inheritance and subsequent sale by Respondents 4 to 8. The petitioner acquired the property through a registered sale deed for valuable consideration. There is no indication that the petitioner had notice of any existing right to maintenance or any obligation to provide for Respondent No. 3. Since Respondent No. 3 did not transfer the property to the petitioner, and the transfer was part of a legal inheritance process followed by a sale for valuable consideration, Section 23 cannot be invoked. The petitioner, as a bona fide purchaser, is not liable under Section 23 as he did not receive the property gratuitously or with notice of any obligation towards Respondent No. 3. Therefore, it emerges that Respondent No. 3 is not the owner of the petition property and has neither transferred nor conveyed it to the petitioner. The compromise decree and the registered partition deed remain unchallenged. Consequently, Section 23 of the PSC Act, which aims to protect senior citizens from transfers where their basic needs are not met, cannot be invoked in this case. The petitioner, being a bona fide purchaser for valuable consideration, does not fall within the ambit of the transferee as defined under Section 23 of the PSC Act.*

12. *Moreover, the Assistant Commissioner failed to verify the records adequately before passing the order. The records clearly showed that the land had already been alienated to the petitioner, who was not afforded an opportunity to present his case. Respondent No.3 pursuant to compromise recorded in O.S.No.15/2012 and consequent registered partition deed has lost right and title if any over the property. Respondent No.3 is not the owner of the property and thereby*



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has no right to transfer/convey the property. Therefore, Section 23 of the Act is not applicable. Transfer of property happened through inheritance. Respondent Nos.4 to 8 who are the widow and children of the predecessor son of Respondent No.3, acquired right by way of inheritance. Petitioner acquired the property through subsequent sale for valid consideration, which thereby excludes applicability of Section 23 of the Act."

5.30. By relying on ***Dharyappagouda Patil's*** case, learned Senior Counsel submitted that where property has subsequently passed into the hands of a bona fide purchaser for valuable consideration, Section 23 of the Senior Citizens Act cannot be invoked against such purchaser. He submitted that in ***Dharyappagouda Patil***, this Court held that once the property had been transferred through a valid partition, inherited by the legal heirs and thereafter sold to a bona fide purchaser, the Tribunal could not exercise powers under Section 23, since the senior citizen was no longer the owner of the property and had not transferred it to the purchaser.

5.31. Applying the same principle to the present case, he submitted that after the petitioner became the owner under the Release Deed, he executed a registered Gift Deed in favour of



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respondent Nos.3 and 4. Therefore, once the property had been transferred by the petitioner to third parties, the Tribunal could not invoke Section 23 to cancel either the Release Deed or the subsequent Gift Deed.

5.32. Without prejudice to his legal submissions, learned Senior Counsel submitted that the petitioner is willing to file an affidavit before this Court undertaking to continue to look after respondent No.2 and provide for all his needs. He further submitted that if this Court considers it necessary, the petitioner is also willing to pay such amount towards the maintenance of Respondent No.2 as may be determined by this Court. He clarified that this offer is made without prejudice to his consistent stand that the petitioner has all along been maintaining respondent No.2 and taking care of his medical and other day-to-day requirements.

6. Sri Sharan B.T., learned counsel appearing for respondent Nos.3 and 4 adopts the submissions of Sri.Dhananjay Joshi, learned Senior Counsel.



7. Sri B.M.Arun, learned counsel appearing for respondent No.2-Senior Citizen-Father would submit that:

7.1. Respondent No.2 has one son, namely the petitioner, and two daughters who are married, settled in the United States of America and are presently taking care of respondent No.2. According to him, the property in question is not a joint family property. It was purchased entirely out of the self-acquired funds of respondent No.2 in the joint names of himself and the petitioner, who was only 19 years old at the time of purchase. The petitioner did not contribute any amount towards the purchase and therefore cannot claim any beneficial interest merely because his name appears as a co-purchaser in the sale deed.

7.2. He further submitted that after purchasing the property, respondent No.2 constructed the residential building consisting of a cellar, ground floor and first floor, having a built-up area of about 8,000 square feet. The entire cost of construction was also borne by Respondent No.2. According to him, the



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present market value of the property is more than Rs.25 crores.

7.3. Learned counsel submitted that respondent No.2 has throughout taken care of the petitioner and his family. The domestic staff, including the cook, driver, gardener and other employees, were appointed and paid by respondent No.2. He also purchased a coffee estate measuring about 105½ acres in Chikkamagaluru District in the name of the petitioner, purchased another property in Mysuru in the petitioner's name and incurred substantial expenditure for the marriage of Respondent No.3.

7.4. He submitted that despite all this, the relationship between the petitioner and Respondent No.2 had become strained over the last ten years. After the death of Respondent No.2's wife in the year 2016, respondent No.2 was left alone and was subjected to increasing harassment by the petitioner and his family. Although Respondent No.2 continued to bear the situation to avoid public embarrassment to



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the family, the ill-treatment became unbearable.

- 7.5. According to learned counsel, while respondent No.2 was continuing to bear all household expenses, the petitioner filed O.S.No.639/2021 seeking partition and obtained an interim order restraining alienation of the suit properties.
- 7.6. He submitted that this suit was filed when Respondent No.2 and his brothers had already negotiated the sale of the Hospet Estate in Chikkamagaluru to a prospective purchaser. According to him, the petitioner had no legal right over the estate, since no partition had taken place.
- 7.7. It was submitted that the petitioner filed the suit only to prevent the proposed sale and thereby pressurise respondent No.2. respondent No.2 was also allegedly threatened by the petitioner and was compelled to seek police protection from the Shankarapuram Police.
- 7.8. Learned counsel submitted that respondent No.2 was thereafter compelled to execute the



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Memorandum of Understanding dated 17.02.2021 and 19.02.2021 and the Release Deed dated 17.02.2021. According to him, these documents were not executed voluntarily but under pressure created by the petitioner, who took advantage of the urgency in completing the sale of the Hospet Estate.

- 7.9. He further submitted that the documents were prepared by the petitioner's advocate without any instructions from respondent No.2 and therefore did not represent his free and independent decision.
- 7.10. According to learned counsel, the petitioner had been demanding transfer of the entire property in his favour since the year 2000. Taking advantage of respondent No.2's advanced age and the urgency surrounding the sale of the coffee estate, the petitioner forced respondent No.2 to execute the Release Deed.
- 7.11. Learned counsel further submitted that the petitioner received a sum of Rs.2,17,12,500/- out of the sale proceeds of the Hospet Estate, though he was not a vendor under the sale deed. The petitioner accepted the amount



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without questioning the sale, thereby accepting that he had no independent right in the estate.

7.12. He submitted that the petitioner has not maintained respondent No.2. On the contrary, respondent No.2 has been subjected to physical, mental and emotional harassment. He alleged that respondent No.2 has been confined to his bedroom, denied free access to other parts of the house and compelled to depend upon outside food. The CCTV cameras and microphones installed throughout the house were, according to him, intended to monitor respondent No.2's movements and conversations, amounting to an invasion of his privacy. He also alleged that household articles belonging to respondent No.2 were removed without his consent.

7.13. Learned counsel submitted that respondent No.2 is 92 years old and suffers from heart disease, diabetes and has undergone back surgery. In these circumstances, the petitioner's contention that respondent No.2 cannot invoke the provisions of the Senior Citizens Act because the petitioner is also a



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senior citizen clearly demonstrates the petitioner's lack of concern towards his aged father.

7.14. He further submitted that even during the COVID-19 pandemic, the petitioner failed to arrange vaccination for respondent No.2, which was instead arranged by one of his daughters. He alleged that the petitioner dismissed respondent No.2's domestic help and instructed the newly appointed cook not to prepare food for respondent No.2. As a result, respondent No.2 had to order food from outside. He further alleged that the petitioner and his family frequently abused respondent No.2, used offensive language and also insulted his daughters whenever they came to take care of him. According to him, even postal communications addressed to respondent No.2 were returned by the petitioner stating that respondent No.2 was no longer residing at the address.

7.15. Learned counsel submitted that the petitioner was attempting to create a situation where respondent No.2 would be forced to leave the



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house. respondent No.2 seeks only peaceful occupation of the ground floor and does not wish to reside with the petitioner. According to him, if the petitioner requires separate facilities on the first floor, necessary alterations can always be made, but that cannot be a reason to disturb the peaceful living of respondent No.2.

7.16. Learned counsel further submitted that the Gift Deed dated 03.01.2022 executed by the petitioner in favour of respondent Nos.3 and 4 was itself suspicious. A legal notice had already been issued by respondent No.2 on 23.12.2021 questioning the Release Deed. Despite having knowledge of the proposed legal action, the petitioner executed the Gift Deed shortly thereafter, which, according to him, clearly shows that it was intended to defeat the rights of respondent No.2.

7.17. He pointed out that although the petitioner replied to the legal notice on 04.01.2022, there was no mention of the Gift Deed in the reply. The Gift Deed was disclosed only later during the proceedings. According to him, this conduct



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further casts doubt on the bona fides of the transaction.

7.18. Learned counsel submitted that the petitioner, his wife and respondent Nos.3 and 4 have all participated in ill-treating respondent No.2. Since respondent Nos.3 and 4 were fully aware of the legal notice issued by respondent No.2 before accepting the Gift Deed, they cannot claim to be bona fide transferees. Therefore, the petitioner cannot derive any benefit from the decision in ***Dharyappagouda Patil***, and the subsequent Gift Deed does not defeat the jurisdiction of the Tribunal under Section 23 of the Senior Citizens Act.

7.19. He relies upon the decision of the Hon'ble Apex Court in ***Urmila Dixit v. Sunil Sharan Dixit and Others***, more particularly paras 1, 3, 4, 6.1, 12, 13 to 15, 18 and 21 to 26, which are reproduced hereunder for easy reference:

"1. *The present appeal arises from the final judgment and order dated 31-10-2022 passed by the High Court of Madhya Pradesh at Jabalpur in Sunil Sharan Dixit v. Urmila Dixit [Sunil Sharan Dixit v. Urmila Dixit, 2022 SCC OnLine MP 3776] , whereby the judgment and order dated 2-8-2022 of the Single Judge of the High Court of Madhya Pradesh in Sunil Sharan Dixit v. Urmila Dixit [Sunil*



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Sharan Dixit v. Urmila Dixit, 2022 SCC OnLine MP 6102] was set aside.

3. *The appellant herein is the mother of the Respondent (son). The subject property was purchased by her on 23-1-1968. On 7-9-2019, the appellant executed a gift deed in favour of the Respondent wherein it has been stated that the donee (Respondent) maintains the donor and makes provision for everything. This deed came to be registered on 9-9-2019. Allegedly, on the same day, a vachan patra/promissory note is executed by the Respondent wherein it has been stated that he will take care of the appellant till the end of her life and if he does not do so, the appellant will be at liberty to take back the gift deed. The Respondent, before this Court, has alleged this vachan patra to be fabricated.*

4. *Thereafter, on 24-12-2020, the appellant filed an application under Sections 22 and 23 of the Act before the Sub-Divisional Magistrate, Chhatarpur, alleging that she and her husband were attacked by the Respondent for further transfer of property and that the love and affection between the parties has completely ended. She prayed for setting aside the gift deed in question. This application came to be allowed, and the gift deed, transferring the property of the appellant to the Respondent, was declared null and void. The Respondents preferred an appeal against this order, which came to be dismissed vide order dated 25-4-2022.*

6.1. *Section 23 of the Act is a stand-alone provision, and the function of the Tribunal is only to find out whether the condition in the gift deed or otherwise contains a clause providing for basic amenities and whether the transferee has refused or failed to provide them. There is no other jurisdiction vested with the Tribunal.*

12. *It is in the above background that we must proceed to examine the Act. The Statement of Objects and Reasons of the Act indicates the*



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purpose behind the enactment, as relied upon by this Court in S. Vanitha v. Commr. [S. Vanitha v. Commr., (2021) 15 SCC 730] , is:

"Traditional norms and 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."

13. *The Preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.*

15. *Before advertng to the provisions of the Act, we must be cognizant of the larger issue that this case presents i.e. the care of senior citizens in our society. This Court in Vijaya Manohar Arbat v. Kashirao Rajaram Sawai [Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, (1987) 2 SCC 278 : 1987 SCC (Cri) 354] highlighted that it is a social obligation for both sons and daughters to maintain their parents when they are unable to do so.*

16. *In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51] , this Court observed that when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the*



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cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the Preamble. Recently, this exposition came to be reiterated in Rajnesh v. Neha [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 : (2021) 1 SCC (Cri) 749]

17. *While issuing a slew of directions for the protection of senior citizens in Ashwani Kumar v. Union of India [Ashwani Kumar v. Union of India, (2019) 2 SCC 636 : (2019) 1 SCC (L&S) 465] , this Court had highlighted : (SCC p. 641, paras 3-4)*

"3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons—rights that are recognised by Article 21 of the Constitution as understood and interpreted by this Court in a series of decisions over a period



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of several decades, and rights that have gained recognition over the years due to emerging situations."

(emphasis supplied)

18. *Keeping in mind the beneficial intention of the statute and the above expositions, we now proceed to consider the issue at hand."*

7.20. By relying on **Urmila Dixit's** case, learned counsel submitted that the Hon'ble Supreme Court has held that the object of the Senior Citizens Act is to ensure the maintenance, welfare and protection of senior citizens and that Section 23 is intended to provide a simple and effective remedy where a transfer of property has been obtained on the assurance of providing basic amenities and physical needs but the transferee has failed to fulfil that obligation. He submitted that the recitals in the Release Deed, the circumstances in which it came to be executed, the conduct of the petitioner thereafter and the evidence led before the Assistant Commissioner clearly satisfy the requirements laid down in **Urmila Dixit**. Therefore, according to him, the Assistant Commissioner was fully justified in



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invoking Section 23 of the Act and declaring the Release Deed void.

7.21. He relies on recitals in para 5(i) and 5(ii) of the release deed dated 17.02.2021, which are reproduced hereunder for easy reference:

"5. The Releasee Covenant with the Releasor as follows:

- i. The Releasee being the son of the Releasor is bound to take good care of the Releasor until his life time and attend to his needs.*
- ii. The Releasee shall permit the Releasor to reside in the Schedule Property till his lifetime without causing any disturbance. It shall be the moral duty of the Releasee in attend to the needs and necessities of his father i.e, the Releasor until his lifetime."*

7.22. Placing reliance on the above recitals, learned counsel submitted that the Release Deed itself casts an obligation upon the petitioner to take care of respondent No.2 and provide for his needs. According to him, the petitioner has failed to discharge these obligations. Therefore, the conditions prescribed under Section 23 of the Senior Citizens Act stand satisfied, and the Assistant Commissioner was justified in declaring the Release Deed void.



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7.23. Learned counsel further submitted that although respondent No.2 had purchased the property and constructed the entire building from his own funds, he has no objection to the petitioner continuing to reside on the first floor of the house, which measures about 4,000 square feet. According to him, the said accommodation is sufficient for the petitioner, his wife and their two daughters whenever they visit. Respondent No.2 is also willing to permit the petitioner and his family to use one car parking space in the cellar.

7.24. Finally, learned counsel submitted that no ground is made out for interference with the impugned order. He submitted that this Court is exercising its writ jurisdiction and not appellate jurisdiction. Therefore, unless the order passed by the Assistant Commissioner is shown to be illegal, perverse or without jurisdiction, this Court ought not to interfere merely because another view is possible. On these grounds, he prayed that the writ petition be dismissed.



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8. Heard Sri Dhananjay Joshi, learned Senior counsel for the petitioner, Sri Mohammed Jafar Shah, learned AGA for respondent No.1, Sri B.M. Arun, learned counsel for respondent No.2 and Sri Sharan B.T., learned counsel for respondent Nos.3 and 4. Perused papers.
9. The points that would arise for consideration are:
 - (i) **Whether an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable against a transferee who is himself a senior citizen?**
 - (ii) **Whether, on the facts of the present case, the registered Release Deed dated 17.02.2021 was executed as part of a bona fide family settlement supported by consideration, or whether it was a transfer falling within the ambit of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?**
 - (iii) **Whether the conditions prescribed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for declaring the Release Deed void have been established in the present case?**
 - (iv) **Whether the Assistant Commissioner, while exercising jurisdiction under Section 23 of the Maintenance and**



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Welfare of Parents and Senior Citizens Act, 2007, was competent to declare the Release Deed dated 17.02.2021 and the subsequent Gift Deed dated 03.01.2022 as null and void, and to grant exclusive possession of the ground floor of the property to Respondent No.2?

(v) Whether the impugned order dated 16.05.2025 passed by the Assistant Commissioner suffers from any jurisdictional error, illegality, perversity or failure to consider the material on record so as to warrant interference by this Court under Articles 226 and 227 of the Constitution of India?

(vi) What order?

10. This court answers the above points as follows:

11. **Answer to point No. (i): Whether an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable against a transferee who is himself a senior citizen?**

11.1. The learned Senior Counsel, Sri Dhananjay Joshi, contended that the Petitioner had himself become a senior citizen on the date on which respondent No.2 filed the application under Section 23 of the Act. He submitted that a person who has crossed sixty years of age is a senior citizen within the meaning of Clause (h) of Section 2 of the Act, and that the Act is



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meant to protect senior citizens and cannot be used by one senior citizen against another.

11.2. In support, he relied on ***Kamalakant Mishra v. Additional Collector and Others*** [2025 SCC OnLine SC 2077(paragraphs 4.8, 5 and 60)], to submit that the relevant date for deciding whether a person is a senior citizen is the date on which the application is filed before the Tribunal. He submitted that on that date the Petitioner was already a senior citizen, and therefore the Tribunal could not have exercised jurisdiction against him.

11.3. He further relied on ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787 (paragraphs 9 and 12)], to submit that the Act is a beneficial legislation which must be read in a manner that advances its object of protecting senior citizens, and that such an object cannot be turned around to allow one senior citizen to obtain relief against another.

11.4. He also relied on ***Vimal Dagadu Kate and Another v. State of Maharashtra and Others*** [WP.No.882/2024 (paragraph 4)], to



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submit that the jurisdiction of the Tribunal cannot be invoked by one senior citizen against another senior citizen, especially where the real dispute is about possession of property.

11.5. Sri Sharan B.T., learned counsel for Respondent Nos.3 and 4, adopted these submissions.

11.6. Learned Additional Government Advocate, Sri Mohammed Jafar Shah, appearing for respondent No.1, supported the impugned order and submitted that the Assistant Commissioner had acted within the jurisdiction conferred by the Act.

11.7. Learned counsel for respondent No.2, Sri B.M. Arun, submitted that respondent No.2 is ninety-two years of age and is the father of the Petitioner. He submitted that the object of the Act is to protect aged parents and senior citizens, and that this protection cannot be denied merely because the son who is bound to look after the father has himself crossed sixty years of age. He submitted that the very argument of the petitioner, namely that his aged father cannot seek protection because the son is also a senior citizen, shows the



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petitioner's lack of concern for his father. In support of the object and scheme of the Act, he relied on ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787 (paragraph No.12)].

11.8. The narrow question is whether an application under Section 23 of the Act is barred simply because the transferee is also a senior citizen. To answer it, this Court must first look at who the Act is meant to protect.

11.9. Clause (h) of Section 2 of the Act defines a senior citizen as any citizen of India who has attained the age of sixty years or above. Respondent No.2, who is ninety-two years of age and is the father of the Petitioner, is plainly a senior citizen and is also a parent within the meaning of the Act. He is therefore a person whom the Act is designed to protect.

11.10. This court has carefully considered the decision in ***Kamalakant Mishra v. Additional Collector and Others*** relied upon by the learned Senior Counsel. In paragraph 6 of that



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decision, the Hon'ble Supreme Court held as follows:

"The High Court in allowing the appeal has proceeded on the presumption that the Respondent is also a senior citizen as per section 2(h) of the Act, as his date of birth is 04.07.1964. It observed that the Tribunal could not have allowed appellant's complaint since it was made against another senior citizen. This in our view is erroneous. The record shows that the appellant had moved an application before the Tribunal on 12.07.2023 and at that point in time, the Respondent's age was 59 years. Relevant date for consideration would be the date of filing the application before the Tribunal."

11.11. It is important to notice what the Hon'ble Supreme Court actually decided in that decision. The High Court in that case had taken the view that the Tribunal could not allow a complaint made against a person who was a senior citizen, and had set aside the Tribunal's order on that basis. The Hon'ble Supreme Court held that this view was erroneous. In other words, the Hon'ble Supreme Court did not lay down that an application under the Act is barred against a senior citizen transferee. It only fixed the date on which the age of the transferee is to be tested, and it reversed the



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very reasoning on which the Petitioner now relies.

11.12. Therefore, ***Kamalakant Mishra*** does not help the Petitioner. At the highest, it requires the Petitioner's age to be seen as on the date of the application. Even accepting that the Petitioner was a senior citizen on that date, that fact does not, by itself, take away the jurisdiction of the Tribunal. The decision does not say that a senior citizen transferee is immune from an application under the Act; if anything, it holds the opposite.

11.13. The decision in ***Vimal Dagadu Kate and Another v. State of Maharashtra and Others*** stands on entirely different facts. In paragraph 4 of that decision, the Hon'ble Bombay High Court found and held as follows:

"...Petitioner No.1 is her sister and also a senior citizen. Jurisdiction of Maintenance Tribunal cannot be invoked by one senior citizen to recover possession of premises from another senior citizen. Petitioner No.1 is admittedly not supposed to maintain Respondent No.2... the present case involves gross abuse of jurisdiction of the Tribunal which is utilized for the purpose of securing possession of first floor premises from one senior citizen by another senior citizen."



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11.14. It was in that setting, where the two contesting parties were sisters and one owed no duty to maintain the other, and where the proceeding was in actuality a suit to recover possession, that the Hon'ble Bombay High Court held that one senior citizen could not invoke the Tribunal against another for recovery of possession. The present case is different in all material respect. Here, the applicant is the father and the transferee is his own son, who is under a duty to maintain his father. There is also an express covenant in the Release Deed by which the son undertook to take care of his father. The ratio of **Vimal Dagadu Kate** is therefore distinguishable and does not apply to a case between a parent and his child.

11.15. The decision in **Urmila Dixit v. Sunil Sharan Dixit and Others** [(2025) 2 SCC 787], relied upon by both sides, actually supports the view this Court is taking. In paragraph 12 of that decision, the Hon'ble Supreme Court set out the object of the Act in the following words:

"...due to withering of the joint family system, a large number of elderly are not being looked after by their family... there is a need to give



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more attention to the care and protection for the older persons... there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents."

11.16. When the object of the Act is to protect aged parents who are not looked after by their family, it would defeat that very object to hold that a father cannot seek protection against his son merely because the son has also crossed sixty years of age and has become a senior citizen. The purposive reading urged by the petitioner, in truth, points the other way. A beneficial statute must be read to advance the protection of the senior citizen who has parted with the property, and not to create a new immunity for the transferee, just because he has become a senior citizen, which does not take away the fact that the father is also a senior citizen.

11.17. This Court answers point No.(i) by holding that an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable against a transferee who is himself a senior citizen. The age of the transferee is not a bar to the jurisdiction of the Tribunal. What matters is



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that the applicant is a senior citizen who has transferred property subject to a condition of being looked after.

12. **Answer to point No. (ii): Whether, on the facts of the present case, the registered Release Deed dated 17.02.2021 was executed as part of a bona fide family settlement supported by consideration, or whether it was a transfer falling within the ambit of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?**

12.1. Sri Dhananjay Joshi, Learned Senior Counsel, submitted that the Release Deed was not a gift made out of love and affection, but part of a composite family settlement. He submitted that the petitioner had filed O.S.No.639/2021 for partition and had obtained an interim order restraining alienation; that after receiving summons respondent No.2 came forward to settle; that respondent No.2 released his fifty per cent share in the residential property and also agreed to pay the petitioner's share in the sale proceeds of the Hospet Estate; and that the petitioner, in turn, withdrew the partition suit. He submitted that the Release Deed dated 17.02.2021, the Memorandum of Understanding dated 17.02.2021 and



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19.02.2021, and the payment made by demand draft together formed one settlement supported by consideration.

12.2. He further submitted that, because the transfer was for consideration and was made to settle a genuine dispute, it does not fall within Section 23 of the Act, which, according to him, is meant only for gratuitous transfers made on the assurance of maintenance. He added that respondent No.2 had earlier gifted valuable properties to the petitioner's sisters without giving anything to the petitioner, who is the only son, and that the release was therefore no more than the petitioner's due.

12.3. Sri Sharan B.T., learned counsel adopted these submissions.

12.4. Sri B.M. Arun, learned counsel submitted that the property was self-acquired by respondent No.2 and was purchased in the joint names of himself and when the petitioner was only nineteen years old and had contributed nothing. He submitted that the partition suit was only a device to pressurise respondent No.2, who was at that time in the middle of



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selling the Hospet Estate, and that the Release Deed was got executed from Respondent No.2 under that pressure and was drafted by the petitioner's own advocate. He submitted that, whatever be the nomenclature of the document, it was a transfer of respondent No.2's property to his son coupled with an express covenant that the son would take care of the father and permit him to reside in the property, and that such a transfer falls squarely within Section 23. He relied on ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787] and on the recitals in paragraph 5(i) and 5(ii) of the Release Deed, extracted above.

12.5. To decide this point, it is necessary to read Section 23 of the Act, which is the provision under which the application was filed. It reads as follows:

"23. Transfer of property to be void in certain circumstances.—(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to



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have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5."

12.6. A plain reading of Sub-section (1) of Section 23 shows that it is not confined to gifts. It applies where a senior citizen has transferred property "by way of gift or otherwise". The words "or otherwise" are wide. They take into their fold and ambit, a release, a settlement, or any other mode of transfer. What the provision looks for is not the nomenclature of the document but two things, first, whether the transfer was made subject to a condition that the transferee would provide the basic needs and amenities of the transferor; and secondly, whether the transferee has failed to do so. Sub-section (2) further shows that the Act contemplates transfers for consideration as



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well, because it deals separately with a transferee for consideration and without notice. The mere fact that a transfer is supported by consideration does not, therefore, take it outside Section 23.

12.7. This understanding is confirmed by ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787]. In paragraph 6.1 of that decision, the Hon'ble Supreme Court explained the limited function of the Tribunal in these words:

"Section 23 of the Act is a stand-alone provision, and the function of the Tribunal is only to find out whether the condition in the gift deed or otherwise contains a clause providing for basic amenities and whether the transferee has refused or failed to provide them. There is no other jurisdiction vested with the Tribunal."

12.8. The words "or otherwise" used by the Hon'ble Supreme Court make it clear that the condition need not be found in a gift deed alone. It may be found in any deed of transfer.

12.9. The Release Deed dated 17.02.2021, contains exactly such a condition. In paragraph 5(i) it is recited that the Releasee, being the son of the Releasor, is bound to take good care of the



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Releasor until his lifetime and attend to his needs. In paragraph 5(ii) it is recited that the Releasee shall permit the Releasor to reside in the Schedule Property till his lifetime without causing any disturbance. These recitals show that the transfer of Respondent No.2's share to the Petitioner was made subject to a clear condition that the Petitioner would look after his father and would allow him to live in the property in peace.

12.10. The Petitioner cannot rely on the Release Deed to claim ownership and, at the same time, ask this Court to ignore the very conditions written into it. Even if this Court were to accept the Petitioner's case that the document was part of a family settlement supported by consideration, that does not change the nature of the transaction for the purpose of Section 23. The document remains a transfer of the senior citizen's property, made subject to a condition of care and residence. Such a transfer falls within the words "gift or otherwise" in Sub-section (1) of Section 23.



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12.11. This Court is conscious that the parties have taken sharply competing positions on whether the property was joint family property or was self-acquired, and on whether the Release Deed was voluntary or was obtained under pressure. These are disputed questions of fact. Sitting in writ jurisdiction, this Court need not resolve them, and does not propose to do so, because the answer does not depend on them. Whichever version is correct, the document is a transfer by a senior citizen subject to a condition of maintenance and residence, and that alone is enough to bring it within Section 23.

12.12. This Court answers point No. (ii) by holding that on the facts of the present case, the Release Deed dated 17.02.2021, whether or not it is described as a bona fide family settlement supported by consideration, is a transfer falling within the ambit of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



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13. **Answer to point No. (iii): Whether the conditions prescribed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for declaring the Release Deed void have been established in the present case?**

13.1. Sri Dhananjay Joshi, Learned Senior counsel, submitted that the Release Deed contains no condition requiring the Petitioner to maintain respondent No.2, and that, in any event, the Petitioner has been looking after his father for more than forty years.

13.2. He submitted that the Petitioner continues to provide a cook, domestic help and medicines, and pays the utility bills and property taxes, and that respondent No.2 continues to live in the same house with free access to all its parts, as shown by the CCTV footage and photographs produced.

13.3. He submitted that the burden of proving failure to maintain lay on respondent No.2, who invoked Section 23, and that the Assistant Commissioner wrongly placed that burden on the Petitioner and failed to consider the petitioner's evidence and the admissions made in cross-examination.



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- 13.4. He also submitted that the proceedings were set in motion not by respondent No.2 of his own accord but at the instance of the Petitioner's sisters.
- 13.5. Sri Sharan B.T., learned counsel adopted these submissions.
- 13.6. Sri B.M. Arun, learned counsel submitted that the Release Deed itself, in paragraph 5(i) and 5(ii), casts an obligation on the petitioner to take care of respondent No.2 and to permit him to reside in the property without disturbance, and that this obligation has been broken.
- 13.7. He submitted that after the death of respondent No.2's wife in the year 2016, respondent No.2 was left alone and was harassed; that he was confined to his bedroom and denied free access to the house; that the petitioner dismissed the domestic help and instructed the cook not to prepare food for respondent No.2, forcing him to depend on food ordered from outside; that during the COVID-19 pandemic the petitioner did not even arrange his father's vaccination, which was



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arranged by a daughter; that CCTV cameras and microphones were installed to watch and listen to respondent No.2; and that postal articles addressed to respondent No.2 were returned with the endorsement that he no longer lived there. He submitted that respondent No.2 is ninety-two years of age and suffers from heart disease and diabetes and has undergone back surgery.

13.8. Under Sub-section (1) of Section 23, three things must be shown before a transfer can be declared void. First, the person transferring the property must be a senior citizen. Secondly, the transfer must have been made subject to a condition that the transferee would provide the basic amenities and physical needs of the transferor. Thirdly, the transferee must have refused or failed to provide them.

13.9. The first requirement is not in dispute. respondent No.2 is ninety-two years of age and is a senior citizen.

13.10. The second requirement is also satisfied. The petitioner's submission that the Release Deed contains no condition of maintenance is not



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correct on the face of the document. As already noticed under point (ii), paragraph 5(i) of the Release Deed records that the Petitioner is bound to take good care of the Releasor until his lifetime and attend to his needs, and paragraph 5(ii) records that the petitioner shall permit the Releasor to reside in the Schedule Property till his lifetime without causing any disturbance. These are conditions of care and of peaceful residence, and the words used are words of obligation. The later reference in the deed to the moral duty of the son does not wipe out the earlier and clear words. Read as a whole, the Release Deed does contain the condition that Section 23 speaks of. Following ***Urmila Dixit*** (paragraph 6.1), it is exactly this kind of clause that the Tribunal has to look for.

13.11. The third requirement, namely failure to provide, is where the parties differ on facts. The Assistant Commissioner, after recording the evidence of both respondent No.2 and the Petitioner and after considering the material, came to the conclusion that the petitioner had failed to look after his father and had not permitted him to live in peace. Sitting under



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Articles 226 and 227 of the Constitution, this court's task is not to re-weigh this evidence as if this court were sitting in appeal. This Court is to see whether the finding of failure is supported by material on record, or whether it is a finding that no reasonable person could have reached.

13.12. There was material before the Assistant Commissioner to support the finding. respondent No.2 spoke of being confined to his bedroom, of the domestic help being dismissed, of the cook being told not to cook for him, of being made to depend on food from outside, of his vaccination during the pandemic being arranged not by his son but by a daughter, and of his postal articles being returned with an endorsement that he no longer resided in the house. Any of these allegations, if accepted, show not merely an absence of care but active steps that made his life in the house difficult. The Assistant Commissioner chose to accept this version, and that was a view reasonably available to be taken on the material on record, admittedly the



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relationship between the father and son being strained.

13.13. The petitioner's answer was that the CCTV footage and photographs show that respondent No.2 had free access to the house. But the Assistant Commissioner was entitled to take the view that constant CCTV and microphone surveillance of a ninety-two year old man is not proof of care, and may itself amount to a disturbance of his peaceful residence, which is the very thing the Release Deed promised to protect.

13.14. As for the burden of proof, once the senior citizen shows the transfer and the condition and places on record specific instances of neglect, it is for the transferee, who is in the best position to show that he is in fact caring for his father, to establish it. Even if the burden is placed on respondent No.2, there was enough material from his side to support the finding. The complaint about the burden of proof therefore does not carry the petitioner's case very far.



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13.15. The submission that the proceedings were set in motion at the instance of the petitioner's sisters does not assist him either. Section 23 looks at whether the statutory conditions are met, and not at who encouraged the senior citizen to approach the Tribunal. Indeed, Sub-section (3) of Section 23 recognises that a senior citizen who is unable to enforce his rights himself may be assisted. The application before the Tribunal remained that of respondent No.2, and it had to be decided, as it was, on its own merits.

13.16. For these reasons, this Court is unable to hold that the finding of failure to take care is perverse or that it rests on no evidence. At its highest, the Petitioner's argument shows that a different view might have been possible on the same material. That is not a ground to interfere in writ jurisdiction.

13.17. This Court answers point No.(iii) by holding that the conditions prescribed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for declaring the



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Release Deed void have been established in the present case.

14. **Answer to point No. (iv): Whether the Assistant Commissioner, while exercising jurisdiction under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was competent to declare the Release Deed dated 17.02.2021 and the subsequent Gift Deed dated 03.01.2022 as null and void, and to grant exclusive possession of the ground floor of the property to Respondent No.2?**

14.1. Sri Dhananjay Joshi, learned Senior Counsel, raised three submissions under this head. First, he submitted that the power to declare a document void and to cancel it belongs only to a civil court under Section 31 of the Specific Relief Act, 1963, and that the Tribunal under the Act cannot exercise such a power in summary proceedings. He submitted that questions of title and the cancellation of registered documents must go to a civil court.

14.2. Secondly, he submitted that once the Petitioner had become the owner under the Release Deed and had gifted the property to Respondents 3 and 4 by the registered Gift Deed dated 03.01.2022, the Tribunal could not cancel that



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later transfer. He submitted that the power under Section 23 can be used only so long as the property remains with the original transferee, and relied on ***Dhariyappagouda Patil v. The State of Karnataka and Others*** [WP.No.101705/2024 dt. 02.07.2024 (paragraphs 6, 7, 8 and 12)], to submit that a purchaser or transferee for value is protected.

14.3. Thirdly, he submitted that, by granting respondent No.2 exclusive possession of the entire ground floor and the cellar parking and by restraining the petitioner from entering it, the Assistant Commissioner had in effect partitioned the house, which is beyond the powers under the Act. He pointed out that the kitchen, living room, entrance, toilets and washing area are all on the ground floor, and that the Petitioner, who is himself a senior citizen and has undergone cardiac surgery, cannot live in the house if he is shut out of the ground floor.

14.4. Sri Sharan B.T., learned counsel adopted these submissions.



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14.5. Sri B.M. Arun, learned counsel submitted that Section 23 is a stand-alone and self-contained provision that expressly empowers the Tribunal to declare the transfer void, and that the general remedy under the Specific Relief Act does not take away this special power. On the Gift Deed, he submitted that ***Dhariyappagouda Patil*** does not help the Petitioner, because Respondent Nos.3 and 4 are not purchasers for value but are donees under a gift; because they are the Petitioner's own daughters; and because they are deemed to have had full notice of Respondent No.2's legal notice dated 23.12.2021 before the Gift Deed dated 03.01.2022 was made. He pointed out that the Gift Deed was not even mentioned in the Petitioner's reply dated 04.01.2022 to the legal notice, which shows that it was made to defeat the rights of Respondent No.2.

14.6. On possession, he submitted that respondent No.2 seeks only peaceful occupation of the ground floor and does not wish to live with the petitioner, and that respondent No.2 has no objection to the petitioner residing on the first floor, which measures about four thousand



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square feet, and to the petitioner using one car parking space in the cellar, with such alterations as may be needed. He relied on ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787 (paragraphs 21 to 26)], for the power of the Tribunal to grant consequential relief.

14.7. This point has three parts. The first part is whether the Assistant Commissioner could declare the Release Deed void at all. The answer is plainly yes. Sub-section (1) of Section 23 of the Act says, in so many words, that where its conditions are satisfied the transfer shall at the option of the transferor be declared void by the Tribunal. The power to declare the transfer void is thus given directly by the statute to the Tribunal, and ***Urmila Dixit*** in paragraph 6.1 describes Section 23 as a stand-alone provision.

14.8. The petitioner's reliance on Section 31 of the Specific Relief Act, 1963 does not change this. Section 31 reads as follows:

"31. When cancellation may be ordered.—
(1) Any person against whom a written



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instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation."

- 14.9. Section 31 is a general provision that allows a person to go to a civil court to have a document adjudged void or voidable. It does not say that only a civil court can ever cancel a document, and it does not touch the special power given to the Tribunal by Section 23 of the Act. The two provisions operate in different fields. Section 23 is a special and beneficial provision meant to give senior citizens a simple, quick and inexpensive remedy, as explained in ***Urmila Dixit*** (paragraph 12). A special remedy of this kind is not taken away merely because a general civil remedy also exists. This Court therefore rejects the submission that the Assistant Commissioner ought to have left the matter to a civil court.



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14.10. The second part is whether the Assistant Commissioner could also cancel the Gift Deed dated 03.01.2022 by which the Petitioner gifted the property to Respondents 3 and 4. Here, Sub-section (2) of Section 23 of the Act, extracted above, is directly relevant. It provides that where a senior citizen has a right to receive maintenance out of an estate and that estate is transferred, the right may be enforced against the transferee if the transferee has notice of the right or if the transfer is gratuitous, but not against a transferee for consideration and without notice.

14.11. On the facts, the Gift Deed is a gratuitous transfer, that is, a gift for no consideration. Further, Respondents 3 and 4 had notice. Respondent No.2 had issued a legal notice on 23.12.2021 questioning the Release Deed, and the Gift Deed was executed shortly afterwards, on 03.01.2022. Both limbs of Sub-section (2) of Section 23, namely a gratuitous transfer and a transferee with notice, are therefore satisfied against Respondents 3 and 4. They cannot claim the protection that Sub-section (2) of Section 23 gives only to a transferee for value



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without notice. Furthermore the transferees by way of gift are the daughters of the petitioner, that is they are not third parties, who can be said to be bonafide transferees.

14.12. This is also why ***Dharyappagouda Patil v. The State of Karnataka and Others*** does not help the petitioner. In that case, as the Co-ordinate Bench recorded in paragraphs 7 and 8, the senior citizen was not the owner of the property and had not transferred it; the property had passed by a registered partition deed and by inheritance and had then been sold to the writ petitioner for valuable consideration; and the writ petitioner was a bona fide purchaser who had no notice of any right to maintenance. The Co-ordinate Bench put it thus:

"...The petitioner acquired the property through a registered sale deed for valuable consideration. There is no indication that the petitioner had notice of any existing right to maintenance... The petitioner, being a bona fide purchaser for valuable consideration, does not fall within the ambit of the transferee as defined under Section 23 of the PSC Act."

14.13. In paragraph 12, the Coordinate Bench again emphasised that the property had been



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alienated for valuable consideration and that Section 23 did not apply. The facts here are the opposite in every respect. The property did come from respondent No.2, the senior citizen. Respondents 3 and 4 paid nothing for it. And they had notice of respondent No.2's claim before they took the gift. A decision that protects a bona fide purchaser for value without notice cannot help a donee who took a gift with notice. ***Dharyappagouda Patil*** is therefore distinguishable.

14.14. There is a further and simpler reason. Once the Release Deed is declared void, the Petitioner had no valid title to give. A person cannot pass on a better title than he himself holds. The Gift Deed made by the Petitioner in favour of his daughters must therefore fall along with the Release Deed on which it stands. If the Tribunal were powerless to cancel such a follow-on transfer, the protection given by Section 23 could be defeated in every case by the transferee quickly gifting the property to a family member. Reading the Act to advance its object, as ***Urmila Dixit*** (paragraphs 9 and 12)



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requires, the Tribunal must be held competent to cancel the consequential Gift Deed as well.

14.15. There is one more and far more simpler reason, Respondent Nos.3 and 4 have received the property gratis by way of a gift, they therefore cannot claim any harm if the gift were set aside on account of the earlier release deed being set aside, leaving the donor (petitioner) no right to donate the property to them.

14.16. The third part is whether the Assistant Commissioner could grant respondent No.2 exclusive possession of the ground floor. This Court does not accept the submission that this amounts to a partition. A partition divides ownership and creates separate titles by metes and bounds. The Assistant Commissioner did not divide ownership or declare shares. He only secured to Respondent No.2 the right to live in a defined part of the house without disturbance. That right flows directly from paragraph 5(ii) of the Release Deed, which promised Respondent No.2 undisturbed residence, and from the protective purpose of



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the Act. The learned counsel for respondent No.2 relied, in this context, on ***Urmila Dixit v. Sunil Sharan Dixit and Others*** [(2025) 2 SCC 787 (paragraphs 21 to 26)] for the proposition that the Tribunal, having declared a transfer void, may grant consequential relief to protect the senior citizen, including relief in relation to possession. That proposition is consistent with the stand-alone and beneficial character of Section 23 explained in paragraph 6.1 and paragraph 12 of the same decision, and this Court accepts it. Providing a distinct and peaceful portion of the house to an aged senior citizen who in this case is also a parent, in a home where the relationship has broken down, is a protective possessory arrangement and not a partition.

14.17. The Petitioner's grievance that all the useful parts of the house are on the ground floor is a matter of practical arrangement and not of jurisdiction. Significantly, the learned counsel for respondent No.2 has fairly stated that respondent No.2 has no objection to the petitioner residing on the first floor, which is



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about four thousand square feet, and to the petitioner using one car parking space in the cellar, and that any alterations needed on the first floor can be carried out. Given the age and health of respondent No.2, who is ninety-two and suffers from heart disease, diabetes and the effects of back surgery, it is reasonable that he should have the ground floor, which is easier for him to use. This Court therefore finds no jurisdictional error in this part of the order either, though a small consequential direction is to added based on the fair statement made for respondent No.2, so as to make the living arrangement workable.

14.18. One other reason is that if the Petitioners claim were to be accepted for the sake of arguments, he claims to have already donated the property to his daughters, leaving no title with him and therefore he cannot claim to have any right to use the ground floor, the arguments advanced and the claims made in this regard in the considered opinion of this court are mutually destructive.



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14.19. This Court answers point No. (iv) by holding that the Assistant Commissioner, while exercising jurisdiction under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was competent to declare the Release Deed dated 17.02.2021 and the subsequent Gift Deed dated 03.01.2022 as null and void, and to grant exclusive possession of the ground floor of the property to respondent No.2.

15. **Answer to point No. (v): Whether the impugned order dated 16.05.2025 passed by the Assistant Commissioner suffers from any jurisdictional error, illegality, perversity or failure to consider the material on record so as to warrant interference by this Court under Articles 226 and 227 of the Constitution of India?**

15.1. Sri Dhananjay Joshi, learned Senior Counsel, submitted that the impugned order suffers from several errors. According to him, the Assistant Commissioner failed to consider the evidence and the admissions made in cross-examination; failed to consider the CCTV footage and photographs; wrongly placed the burden of proof on the Petitioner; treated a family settlement as a transfer under Section



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23; exceeded jurisdiction by cancelling the Gift Deed and by partitioning the house; and did not consider that the Petitioner is himself an ailing senior citizen. He also submitted, without prejudice to his other contentions, that the Petitioner is willing to file an affidavit undertaking to look after Respondent No.2 and to pay such maintenance as this Court may fix. Sri Sharan B.T. adopted these submissions.

15.2. The learned Additional Government Advocate and Sri B.M. Arun submitted that this Court is exercising writ jurisdiction and not appellate jurisdiction, and that the order can be interfered with only if it is shown to be illegal, perverse or without jurisdiction. They submitted that no such ground is made out, and that the Court ought not to interfere merely because another view is possible.

15.3. It is well understood that, when this Court examines an order of a Tribunal under Articles 226 and 227 of the Constitution, it does not sit as a court of appeal. It does not re-appreciate the evidence in order to reach its own conclusion on facts. It interferes only where the



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order suffers from a jurisdictional error, or a breach of the rules of natural justice, or an error apparent on the face of the record, or where the finding is perverse, meaning a finding based on no evidence or one that no reasonable person could have reached.

- 15.4. Judged by this standard, this court finds no ground to interfere.
- 15.5. On the question of jurisdiction, this court has held under points (i) and (iv) that the application was maintainable and that the Assistant Commissioner had the power to pass each part of the order.
- 15.6. On the question of the nature of the transaction, this court has held under point (ii) that the Release Deed falls within Section 23 whether or not it is called a settlement since the words used are "Gift or otherwise".
- 15.7. On the question of the conditions for relief, this court has held under point (iii) that they are established and that the finding of failure to maintain is supported by material and is not perverse.



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15.8. The specific grievances required to be considered under this point are, in substance, is a request to re-appreciate the evidence, which this court cannot do in writ jurisdiction. The complaint that the CCTV footage and the admissions were not considered does not show perversity; the Assistant Commissioner was entitled to weigh that material against the specific instances of neglect alleged by respondent No.2 and to prefer the latter. The complaint about the burden of proof has already been answered under point (iii). The complaints about cancelling the Gift Deed and about possession have already been answered under point (iv). The circumstance that the Petitioner is himself a senior citizen who has undergone cardiac surgery has been kept in view, and Respondent No.2 has fairly agreed to the Petitioner having the first floor.

15.9. This court has also considered the Petitioner's offer, made without prejudice, to file an affidavit undertaking to look after respondent No.2 and to pay such maintenance as this Court may fix. While the offer speaks of a willingness to make amends, it cannot by itself



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render the impugned order illegal. The grievance of respondent No.2 was not only about money; it was about being allowed to live in his own house in peace, and that is what the impugned order secures. The offer therefore does not call for interference with the order, though nothing prevents the Petitioner from abiding by the offer of care in the future, thereby earning back the trust and love of the senior citizen - father.

15.10. There is also no complaint that the petitioner was denied a hearing. On the contrary, both the petitioner and respondent No.2 entered the witness box and were cross-examined at length. The rules of natural justice were followed.

15.11. This Court answers point No.(v) by holding that the impugned order dated 16.05.2025 passed by the Assistant Commissioner does not suffer from any jurisdictional error, illegality, perversity or failure to consider the material on record so as to warrant interference by this Court under Articles 226 and 227 of the Constitution of India.



16. **Answer to point No. (vi): What order?**

16.1. In view of this Courts findings on points (i) to (v), the writ petition must fail. In the result, and for the reasons recorded above, this Court passes the following order:

ORDER

- (i)** The writ petition is **dismissed**.
- (ii)** The impugned order dated 16.05.2025 passed by the Assistant Commissioner, Bangalore North Sub Division, Bengaluru, in Case No.MSC/CR/13/2022 is upheld.
- (iii)** In view of the fair submission made by the learned counsel for respondent No.2, it is clarified that respondent No.2 has no objection to the petitioner and his family residing on the first floor of the property bearing BBMP No.15 (PID No.49-49-15), Pampa Mahakavi Road, Shankarapuram, Bengaluru-560004, and to their using one car parking space in the cellar. The petitioner is accordingly permitted to occupy the first floor and to use one car parking space in the cellar, and is at



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liberty to carry out, at his own cost, such alterations to the first floor as may reasonably be necessary to make it self-contained, without in any manner disturbing the peaceful possession and enjoyment of respondent No.2 over the ground floor.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

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