



CNR: KAHC010393612023

NC: 2026:KHC:45898
WP No. 16932 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 16932 OF 2023 (GM-RES)

BETWEEN:

1. SMT. MAMATHA B.R.
W/O NAGARAJU
AGED ABOUT 20 YEARS,
R/AT BAIRANAYAKANAHALLI VILLAGE,
HULIYURUDURGA HOBLI,
KUNIGAL TALUK
TUMKUR DISTRICT - 572 123.
2. SMT. KALAVATHI
W/O LATE RAJANNA
AGED ABOUT 43 YEARS,
R/AT BAIRANAYAKANAHALLI VILLAGE,
HULIYURUDURGA HOBLI,
KUNIGAL TALUK
TUMKUR DISTRICT - 572 123.

...PETITIONERS

(BY SRI. RAVIKUMARA B R.,ADVOCATE)

AND:

1. ASSISTANT COMMISSIONER
SUB-DIVISION TUMKUR
TUMKURU - 572 101.
2. SRI. NINGAIAH
S/O. LATE NANJEGOWDA @ CHIKKALI NANJIAH
AGED ABOUT 82 YEARS
R/AT BAIRANAYAKANAHALLI VILLAGE,

Digitally
signed by
SUMA B N
Location:
HIGH
COURT OF
KARNATAKA



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HULIYURUDURGA HOBLI,
KUNIGAL TALUK
TUMKUR DISTRICT - 572 123.

...RESPONDENTS

(BY SRI. MANJUNATH RAYAPPA., AGA FOR R1;
SRI. B.T. ANDESHEKAR.,ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER PASSED BY R1 IN CASE NO.PA.PO.SAM AND HIRIYA.NA.RA.KA.SAM.13/23-24 DATED 05.07.2023 U/S 23 OF THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007 VIDE ANNEXURE-A AND ETC.

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

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

1. Petitioners are before this Court seeking following reliefs:

"i) Issue a writ of certiorari or any other writ quashing the Impugned order passed by respondent no.1 in Case.No. pa.po.sam.&hiriya.na.ra.ka.sam:13/23-24 dated:05.07.2023 under section 23 of the maintenance and welfare of parents and Senior Citizens Act, 2007 vide Annexure-A

ii) And consequently restore the ownership of schedule property in favour of the petitioner No.1 herein

iii) And pass such other order/s as this Hon'ble court deems fit and proper in the circumstances of the case in the interest of justice."

2. Respondent No.2-Sri. Ningaiah, is the maternal grandfather of petitioner No.1-Smt. Mamatha B.R. and



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father of petitioner No.2- Smt. Kalavathi. It appears respondent No.2 had executed and registered deed of gift dated 09.02.2023, conveying an extent of 35 guntas of his land in Sy.No.18/9, situated at Byranayakanahalli Village, Huliur Durga Hobli, Kunigal Taluk, Tumkuru District in favour of his granddaughter namely petitioner No.1 herein.

3. Thereafter, alleging negligence he filed a complaint before the respondent No.1- Assistant Commissioner under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Accepting the case of the respondent No.2, by impugned Order dated 05.07.2023, respondent No.1- Assistant Commissioner allowed the said petition, canceling the deed of gift dated 09.02.2023 and directed the concerned Tahsildar to effect entries in the revenue records and to submit a report of compliance. Being aggrieved, petitioners are before this Court.

4. Learned counsel for the petitioners taking this Court through the records submits that the matter was taken up by the respondent No.1- Assistant Commissioner on 27.06.2023 and was thereafter directed to be listed on



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04.07.2023 for the appearance of the petitioners herein who were arrayed as respondents. That on 04.07.2023, petitioners appeared and sought for an opportunity to file objections. However, without providing any opportunity, respondent No.1- Assistant Commissioner posted the matter for pronouncing orders on the very next day i.e. on 05.07.2023 and has accordingly passed the impugned order, canceling the deed of gift dated 09.02.2023. In purported exercise of his power under Section 23 of the Act. He submits that no opportunity of any nature whatsoever has been granted to the petitioners to contest their case.

5. He also submits that a suit in O.S.No.263/2023 has been filed by one Sri. Nanje Gowda, brother of petitioner No.2 and son of respondent No.2 for partition and separate possession, in which, subject property of this petition is also included. Therefore, he submits that these aspects of matter has not been considered by the respondent No.1- Assistant Commissioner and there was no occasion for the petitioners to have brought this aspect of the matter to the



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notice of the respondent No.1-Assistant Commissioner for effective order. Hence, he seeks for allowing of the petition.

6. Learned counsel appearing for respondent No.2, on the other hand submits that the impugned order passed by the respondent No.1-Assistant Commissioner is justified, as the petitioners had obtained the deed of gift dated 09.02.2023, which is in the adverse interest of the respondent No.2.
7. Learned AGA, fairly submits that records maintained by respondent No.1-Assistant Commissioner indicate that no opportunity has been provided to the petitioners. As such, he submits that if the matter is remanded, fresh orders will be passed after giving sufficient opportunity to the petitioners.
8. Submissions are placed on record.
9. Heard. Perused the records.
10. The daily order sheet maintained by respondent No.1-Assistant Commissioner indicate that upon filing of the said



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complaint, the matter was listed on 27.06.2023 and thereafter, it was listed on 04.07.2023 for the appearance of respondents/petitioners herein. From 04.07.2023, the matter appears to have been listed on 05.07.2023 for pronouncement of the order and accordingly impugned order has been passed.

11. Clearly, as submitted by learned counsel for the petitioners there appears to be violation of principles of natural justice. In that, the petitioners have not been given any opportunity to file objections or defend their case. On this ground alone, the order is required to be quashed and remitted for fresh consideration. Accordingly, following:

ORDER

(i) Petition is ***allowed***.

(ii) Matter is remitted to the respondent No.1- Assistant Commissioner for fresh consideration.

(iii) Since the parties are represented by their respective learned counsel, they shall appear before the respondent No.1-Assistant Commissioner on **20.09.2026** without any further notice.



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(iv) Petitioners shall file the statement of objections on the said date.

(v) The respondent No.1-Assistant Commissioner shall provide sufficient opportunity of being heard to the petitioners and thereafter pass appropriate order in accordance with law.

**SD/-
(M.G.S. KAMAL)
JUDGE**

RL
List No.: 1 SI No.: 34