



CNR: KAHC010438202022

NC: 2026:KHC:36608
WP No. 19255 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

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

WRIT PETITION NO. 19255 OF 2022 (GM-RES)

BETWEEN:

1. MS. G. GRHITA RAJ
D/O P.S.REKHARANI
AGED ABOUT 15 YEARS
SINCE MINOR REPRESENTED BY
HER NEXT FRIEND / MOTHER
SMT. P.S.REKHARANI
R/AT NO.69A, 31ST CROSS
JAYANAGARA, 7TH BLOCK
BENGALURU - 560 082.
2. SMT. P.S.REKHARANI
D/O LATE P.K.SHANKAR
W/O SRI B.L.KANTHARAJ
AGED ABOUT 55 YEARS
R/AT NO.69A, 31ST CROSS
JAYANAGARA, 7TH BLOCK
BENGALURU - 560 082.
3. SRI B.L.KANTHARAJ
S/O LATE LAKKAPPA
AGED ABOUT 65 YEARS
R/AT NO.69A, 31ST CROSS
JAYANAGARA, 7TH BLOCK
BENGALURU - 560 082.

...PETITIONERS

(BY SRI RAJESWARA P.N., ADVOCATE)

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



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AND:

1. ASSISTANT COMMISSIONER
BENGALURU SOUTH-DIVISION
BENGALURU - 560 001.
2. SMT. BANGARAMMA
W/O LATE LAKKAPPA
AGED ABOUT 84 YEARS
R/AT NO.404, 7TH MAIN ROAD
JAYANAGAR, 2ND STAGE
BENGALURU - 560 011.

...RESPONDENTS

(BY SRI SRINIVAS KUMAR, HCGP FOR R1;
SRI V.RANGARAMU, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 11/07/2022 IN MSC (SC) CR.50/2019-20 PASSED BY THE 1ST RESPONDENT ASSISTANT COMMISSIONER (ANNEXURE-A) AND CONSEQUENTLY DISMISS THE PETITION FILED BY THE RESPONDENT NO.2 AT ANNEXURE-G BEFORE THE 1ST RESPONDENT AS NOT MAINTAINABLE.

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

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

ORAL ORDER

1. Petitioners, in this petition, who are the respondents before the Assistant Commissioner- respondent No.1 herein are before this Court being aggrieved by order dated 11.07.2022 passed by respondent No.1 in purported exercise of his powers under Section 23 of the Maintenance and Welfare of



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Parents and Senior Citizens Act, 2007 (hereinafter referred to as `Act, 2007).

2. Respondent No.2 is the mother of petitioner No.3. Petitioner No.2 is the wife of petitioner No.3. Petitioner No.1 is the daughter of petitioners 2 and 3 and granddaughter of respondent No.3.
3. Respondent No.2 is stated to be one of the sharers of the property bearing old No.67, new No. 14/1, 14/2, 14/3 situated at 7th Main Road, Ashoka Pillar Road, II Block, Jayanagar, Bangalore, (hereinafter referred to as Schedule A Property) and property bearing Nos.404 and 404/1, 2nd Main Road, II Block, Jayanagar, Bangalore -560 011(hereinafter referred to as Schedule B Property) which originally belonged to Lakkappa, the husband of respondent No.2 and father of petitioner No.3.
4. A petition under Section 23 of the Act, 2007 came to be filed by respondent No.2 before the respondent No.1-authority, alleging that respondents 2 and 3/petitioners 2 and 3 herein had played fraud upon petitioner/respondent No.2 herein in



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obtaining deeds of gift dated 17.10.2019 in respect of her 1/5th undivided share in Schedule A and B properties in favour of their daughter -the respondent No.1/petitioner No.1 herein. It is alleged that respondent Nos.2 and 3/petitioner Nos.2 and 3 herein had asked the petitioner/respondent No.2 herein to sign certain papers required to be produced in the Court where the final decree proceedings are pending consideration. Accordingly, they obtained signatures of the petitioner/respondent No.2 and got two deeds of gift executed and registered. The said final decree proceedings are still pending before the City Civil Court. As such, the deeds of gift clandestinely obtained by respondent Nos.2 and 3/petitioners 2 and 3 herein had no legal sanctity. Therefore liable to be treated as illegal and cancelled.

5. Accepting the said averments and allegations made by petitioner/respondent No.2, respondent No.1 -Assistant Commissioner proceeded to pass the impugned order cancelling the deeds of gift dated 17.10.2019 executed by respondent No.2, conveying her 1/5th share in Schedule A and B properties in favour of petitioner No.1.



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6. Learned counsel for petitioners at the outset submits that the respondent No.1-Assistant Commissioner has no jurisdiction to entertain the complaint of this nature. Firstly, the deeds of gift did not contain any clause providing for any maintenance or amenities to the respondent No.2 as contemplated under Section 23 of the Act, 2007. Secondly, the allegations and the ground urged before the respondent No.1-Assistant Commissioner seeking cancellation of the deeds of gift was not that she was deprived of any amenities or maintenance but the said documents were allegedly obtained by respondent Nos.2 and 3/petitioners 2 and 3 herein by playing fraud on respondent No.2. He submits matter of this nature ought not to have been entertained by the respondent No.1-Assistant Commissioner who had no jurisdiction to adjudicate the issue involving serious allegation of fraud and seeks for allowing of the petition. He also brings to the notice of this Court the order dated 20.09.2023 passed by this Court and submits in terms of the said order, the respondent No.2 is still residing in schedule A



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property with the petitioners and she is being taken care well by the petitioners.

7. Learned HCGP on the other hand justifying the impugned order submits that the respondent No.1-Assistant Commissioner has taken note of the pendency of final decree proceedings amongst the family members in respect to Schedule A and B properties and it is based on said reasoning and considering the age of the respondent No.2 has passed the impugned order. He submits parties, since already are before the competent Court of civil jurisdiction, can have redressal of their grievance, as such, the impugned order need not be interfered with.

8. Heard and perused the records.

9. Grounds urged and the allegation made by respondent No.2 as a petitioner before the respondent No.1-Assistant Commissioner as noted above are simply alleged fraud played by respondents 2 and 3/petitioners 2 and 3 herein on respondent No.2 in leading her to execute deeds of gift



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dated 17.10.2019, conveying her 1/5th share in Schedule A and B properties in favour of petitioner No.1 herein.

10. As pointed out by learned counsel for petitioners there is no whisper in the petition averments as extracted in the impugned order, regarding there being any condition or covenant in the deeds of gift, assuring or undertaking to provide any amenities and maintenance.

11. It is also to be noted that respondent No.2 does not seem to be aggrieved of she not having been provided any amenities. But her case is she having been subjected to fraud leading in she executing the deeds of gift. This distinct allegation, adjudication of the same would not fall within the purview of Section 23 of the Act, 2007.

12. The Division Bench of this Court in the case of ***Jayshankar Vs Assistant Commissioner*** in W.A.339/2023 dated 24.04.2024 has held that matters of this nature requires to be adjudicated before a competent Court of Civil Jurisdiction and revenue authorities or quasi-judicial



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authority and respondent No.1 lack jurisdiction to deal with such matters.

13. The statutory fiction of fraud as contemplated under Section 23 operates in completely different domain, which is if there is a condition in the deed of gift imposing obligation on the donor to provide amenities and basic physical needs, and if such condition is breached, it is only then statutory presumption of fraud, has to be drawn and not otherwise.

14. The Apex Court in the case of **SUDESH CHHIKARA vs. RAMTI DEVI AND ANOTHER** reported in **(2024) 14 SCC 225** at paragraphs 14 and 15 held as under:

"14. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression "by way of gift or otherwise". For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled:

(a) The transfer must have been made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor; and

(b) The transferee refuses or fails to provide such amenities and physical needs to the transferor.

If both the aforesaid conditions are satisfied, by a legal fiction, the transfer shall be deemed to have been made by fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of the transferor and the



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Maintenance Tribunal gets jurisdiction to declare the transfer as void.

15. *When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal."*

In that view of the matter, petition is **allowed**.
Impugned order dated 11.07.2022 at Annexure-A passed by respondent No.1 is set aside and application under Section 23 of the Act, 2007 is dismissed.

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

SBN
List No.: 1 SI No.: 14