

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 22324 OF 2025 (GM-RES)

BETWEEN:

SMT. M. MANJULA
W/O LATE CHIDANANDA M
AGED ABOUT 52 YEARS
RESIDENT OF HOUSE NO.312
OLD POLICE STATION ROAD
HEMAVATI NILAYA
K.R.PURAM
BENGALURU-560 036

...PETITIONER

(BY SRI: P JANARDANA RAO, ADVOCATE)

AND:

SMT. M. ANUSUYA
W/O LATE A.M. RAMA DASS
AGED ABOUT 70 YEARS
RESIDENT OF HOUSE NO.312
OLD POLICE STATION ROAD
HEMAVATI NILAYA
K.R.PURAM
BENGALURU-560.036

...RESPONDENT

(BY SRI: R BHADRINATH, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER ISSUED BY THE MAINTENANCE TRIBUNAL AND ASSISTANT COMMISSIONER COURT (NORTH SUB-DIVISION) BENGALURU IN MSC/CR 45/2025 DATED

09.06.2025 CANCELING THE GIFT DEED DATED 19.12.2022 EXECUTED BY THE RESPONDENT/ DONOR, WHICH ORDER WAS ISSUED AFTER THE DEATH OF DONEE ON 12.09.2024, IN THE INTEREST OF JUSTICE AND ETC.,

THIS WRIT PETITION, HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT, THIS DAY, **T.P.VIVEKANANDA J.**, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV ORDER

The petitioner is before this Court seeking for the following relief:

"to set aside the order dated 09.06.2025 vide Annexure-J issued by the Trial Court (Tribunal of Maintenance and Welfare of Parents and Senior Citizens and Assistant Commissioner (North Sub-Division), Bengaluru), in MSC/CR 45/2025 which order was given canceling the gift deed dated 19.12.2022 executed by the Respodnent/Donor, as prayed by her after the death of Donee (on 12.09.2024), in the interest of justice."

2. Brief facts leading to filing of the present writ petition are that, Smt M Anusuya, had executed registered gift deed dated 19.12.2022 at Annexure-B in favour of her son R Chidananda, in respect of the following property:

SCHEDULE PROPERTY

All that piece and parcel of the immovable Gramatana Property bearing BBMP Khatha Municipal No.1707, BBMP Khatha Serial No.1707, Old No.210, House No.312, situated at Krishnarajapuram, Krishnarajapuram Hobli, Bangalore East Taluk, Now comes under the jurisdiction of Bruhat Bangalore Mahanagara Palike (BBMP) Ward No.52, Previously comes under K R Puram CMC Limits, Bangalore, Measuring East to West: 43½ Feet and North to South: 33½ Feet, in all Measuring 1457.25 Square Feet and bounded on the :

East by : Road

West by : Property belongs to A Muniyappa

North by : Road

South by : House belongs to Ajeez Baig"

3. Based on the gift deed, khata has been registered in the name of R Chidananda in the records of BBMP. It is on record that R Chidananda died on 12.09.2024. After his death, Smt M Anusuya i.e., respondent herein had approached the Assistant Commissioner Bengaluru East Taluk, through representation dated 17.03.2025 at Annexure-G complaining that her son had obtained gift deed by misrepresenting that he

is obtaining GPA and after the death of her son, her wife Smt M Manjula i.e., the petitioner herein thrown her out of the residential house and she has not been taken care of, and therefore, requested for cancellation of gift deed.

4. The representation submitted by the respondent was registered as case No.MSC/CR 45/2025 under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act'). The Tribunal constituted under the aforesaid Act, issued notice to the petitioner. Since there was no representation, the Tribunal proceeded to allow the petition directing the jurisdictional Sub-Registrar to cancel the gift deed dated 19.12.2022 at Annexure-B executed by the respondent in favour of the husband of the petitioner. In addition, the Tribunal has directed the petitioner herein to pay monthly maintenance of Rs.6,000/- in favour of the respondent.

5. The order passed by the Tribunal is under challenge in the present writ petition.

6. Heard learned counsel for the petitioner and the respondent and perused the materials on record.

7. The solitary contention raised by the learned counsel for the petitioner is that, while the respondent - mother executing the registered gift deed at Annexure-B, no condition is stipulated that the donee shall maintain the donor and therefore, the power exercised by the Tribunal under Section 23 of the Act, is unsustainable. It is his further contention that her husband i.e., the donee died on 12.09.2024 and after his death, she being the legal heir of the deceased R Chidananda, is entitle to succeed to the entire property. Therefore, filing of the petition before the Tribunal seeking cancellation of gift deed, was not maintainable. Hence, he prays to allow the petition.

8. *Per contra*, learned counsel for the respondent contended that pursuant to the impugned order dated 09.06.2025, the gift deed dated 09.12.2022 at Annexure-B has already been cancelled in the office of the jurisdictional Sub-Registrar on 05.08.2025 and therefore, no interference is warranted at the hand of this Court. He further contended that one of the daughters of the respondent has filed a separate suit in OS No.4922 of 2025 before the City Civil Court for partition and declaration that the gift deed in question is not binding on her and in light of the pendency of suit, the present writ

petition challenging the impugned order is not maintainable and the petitioner is required to contest the pending civil suit. Accordingly, prayed for dismissal of the writ petition.

9. On hearing the learned counsel for the petitioner and learned counsel for the respondent and on perusal of the materials placed before the Court, it is seen that the respondent - mother has executed the registered gift deed dated 19.12.2022 in favour of her son R Chidananda, who is the husband of the petitioner herein. In the said gift deed, the donor covenants that out of love and affection towards her son, she has executed the gift deed and her daughters have taken their share in the partition deed registered on 20.08.2013 and her son R Chidananda alone is entitle to the gifted property. No condition is stipulated in the registered gift deed that the donee/transferee shall provide the basic amenities and basic physical needs to the donor. There is no further condition that if the donee/transferee refuses or fails to provide such amenities and physical needs to the transferor, the gift deed could be declared void. Since aforesaid two conditions are absent in the gift deed in question, the Tribunal lacks jurisdiction to exercise the power under Section 23 of the Act and thus, the impugned order is unsustainable.

10. It is apposite to refer to the decision of the Hon'ble Supreme Court in the case of ***Sudesh Chhikara Vs Ramti Devi and Another***¹. The Hon'ble Supreme Court while interpreting the provisions of Section 23 of the Act, has 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 basis amenities and basis 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 Maintenance Tribunal gets jurisdiction to declare the transfer as void."

11. One other aspect which needs to be considered is that, notwithstanding, the fact that the respondent - mother

¹ (2024) 14 SCC 225

was not entitled to seek for cancellation of the subject gift deed, however, the fact remains that upon the death of her son R Chidananda, the respondent-mother being the Class-I heir is entitled to share in the property, which is gifted to her son.

12. As submitted by learned counsel for the respondent that, pursuant to the impugned order passed by the Tribunal, the gift deed at Annexure-B has been cancelled. If that is so, in light of the finding recorded by this Court holding that the order passed by the Tribunal is illegal and contrary to Section 23 of the Act, and as a consequence, the cancellation of gift deed would be of no consequence and the *status quo ante* prevail prior to the impugned order passed by the Assistant Commissioner will have to be restored.

13. It is pleaded by the respondent - mother in the petition filed before the Assistant Commissioner that she is aged 81 years suffering from ill-health and require medical attendance and there are nobody to look after her day-to-day requirements. Taking note of the same, the Tribunal has directed the petitioner herein to pay maintenance of Rs.6,000/- per month. On this aspect, learned counsel for the petitioner has vehemently argued that the respondent is a pensioner and

drawing pension of around of Rs.63,000/- per month. Therefore, she does not require any financial support from the petitioner. In support of the same, the petitioner has produced copy of the Bank account statement. This submission is not seriously opposed by the respondent.

14. In view of the above, the order passed by the maintenance Tribunal directing payment of monthly maintenance of Rs.6,000/- is also not sustainable.

15. The rights, if any, of the plaintiffs and defendants in OS No.4722 of 2025 is not considered in this petition, since all the parties to the suit are not parties in the present writ petition and the scope of the present petition is limited to consider the legality of the order passed by the Maintenance Tribunal.

16. Hence, the following:

ORDER

- i) Writ Petition is ***allowed.***
- ii) The order dated 09.06.2025 passed in MSC/CR 45 of 2025 by the Assistant Commissioner, Bengaluru North Sub-Division, at Bengaluru, is hereby quashed in its entirety.

iii) It is declared that any cancellation of the gift deed No.KRI-1-11240-2022-23 dated 19.12.2022 at Annexure-B pursuant to the impugned order, is *void* and *non-est* in light of order passed in this writ petition.

iv) The petitioner is permitted to submit a representation before jurisdictional Sub-Registrar enclosing the certified copy of this order seeking restoration of the registered gift deed No.KRI-1-11240-2022-23 dated 19.12.2022 and the jurisdictional Sub-Registrar to make necessary entries in the relevant register regarding the order passed in the present writ petition and restore the registered gift deed dated 19.12.2022.

Ordered accordingly.

No costs.

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

BGN