



CNR: KAHC010720012024

NC: 2026:KHC:53622
WP No. 34492 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34492 OF 2024 (GM-RES)

BETWEEN:

SMT. C. CHIKKATAYAMMA
W/O M. ESHWARA
AGED ABOUT 46 YEARS
NO. 3/17, CAUVERI ROAD
NAYAKARA DODDA STREET
KOLLEGALA
CHAMARAJANAGARA-571 440

...PETITIONER

(BY SRI: S RAMAMURTHY, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
KOLLEGALA SUB-DIVISION
CHAMARAJNAGARA DISTRICT
PIN-571 313
2. SRI. CHIKKANNA
S/O LATE MADIAH
AGED ABOUT 70 YEARS
3. SRI. C. MAHADEV
S/O CHIKANNA
AGED ABOUT 46 YEARS
4. SRI. SHIVARAJU
S/O CHIKANNA
AGED ABOUT 44 YEARS



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5. SRI. C. CHELUVARAJU
S/O CHIKANNA
AGED ABOUT 46 YEARS
6. SRI. JAGADEESH
S/O CHIKANNA
AGED ABOUT 46 YEARS

RESPONDENTS NO.2 TO 6 ARE
RESIDING AT NAYAKARA DODDABEEDI
KOLLEGALA TOWN-571 313

...RESPONDENTS

(BY SMT: K.P. YASHODA, AGA FOR R1;
SRI: ANGAD KAMATH, ADVOCATE FOR R2;
SRI:RAJESH P, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL
FOR THE RECORDS FROM THE RESPONDENT NO.1/ASSISTANT
COMMISSIONER IN CASE NO.M.A.G.C.R 81/2023-24 DATED
16.07.2024 PASSED BY THE RESPONDENT NO.1 VIDE
ANNEXURE-B.

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

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



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ORAL ORDER

The petitioner is before this Court challenging the order passed by respondent No.1 - Assistant Commissioner in proceedings No.MAGCR 81 of 2023-24 dated 16.07.2024 at Annexure-B.

2. Respondent No.2 herein initiated proceedings under the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act') before respondent No.1 seeking annulment of the registered gift deed dated 25.10.2012 executed by respondent No.2 in favour of the petitioner herein. The reason for seeking the said prayer was that, despite there being a condition stipulated in the registered gift deed dated 25.10.2012 that the donee would take care of the donor by providing all required amenities, the petitioner herein who is the donee has not taken care of respondent No.2 - father and on account of execution of gift deed in favour of the petitioner herein, the other children are also not taking care of the respondent No.2 - father. Incidentally, in the said proceedings the other children of respondent No.2 were also arrayed as respondent Nos.3 to 6.



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3. Upon issuance of notice of the said proceedings respondent No.1 passed the impugned order canceling the registered gift deed dated 25.10.2012 at Annexure-A in exercise of the power under Section 23 of the Act. In addition, a direction was also issued to the jurisdictional Sub-Registrar to make necessary entry of the order dated 18.12.2024 passed by this Court.

4. This Court while entertaining the writ petition passed the interim order on 18.12.2024 staying the impugned order, subject to the petitioner paying a sum of Rs.4,000/- to respondent No.2 as monthly maintenance with effect from 01.01.2025 till her lifetime. In light of the interim order, the order impugned has not been given effect so far.

5. I have heard the learned counsel for the petitioner and respondent No.2 and perused the writ papers.

6. It is the contention of learned counsel for the petitioner that there is no condition stipulated in the gift deed dated 25.10.2012, as regards the responsibility/obligation of the petitioner to maintain respondent No.2. When there is no



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condition stipulated in the registered gift deed, respondent No.1 lack jurisdiction to entertain the petition under Section 23 of the Act and pass the order annulling of the registered gift deed. It is the further contention of learned counsel that though notice of the proceedings was issued to the petitioner by respondent No.1 - Assistant Commissioner, however, sufficient opportunity of hearing was not afforded.

7. It is his further submission that on 29.05.2024, the Presiding Officer, after hearing the matter, has posted for orders and no date was given for pronouncement of the order. However, in the interregnum, the officer who has heard the matter and posted it for orders was transferred and the hearing date was fixed on 19.06.2024. The order sheet discloses that no hearing took place on 19.06.2024. The order sheet further discloses that the proceedings was conducted on 20.06.2024. Whether the parties were issued with the notice of hearing is not forthcoming. The presence of the appellant and respondent No.1 is also not recorded. The order sheet dated 16.07.2024 does not indicate the presence of the parties and the order has been pronounced in the open Court.



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8. It is the contention of the petitioner that the officer who has heard the matter on 29.05.2024 was transferred and the new incumbent has not heard the matter and therefore, the impugned order suffers from illegality and infirmity and liable to be set aside.

9. *Per contra*, learned counsel for respondent No.2 submits that in the proceedings before respondent No.1, sufficient opportunity was provided to the petitioner. The order sheet discloses that on several dates of hearing, the petitioner herein who was respondent No.1 therein had appeared and affixed her signature. Therefore, it cannot be said that there was no opportunity to the petitioner to oppose the petition and prays that the writ petition be dismissed.

10. On hearing the learned counsel for the petitioner and respondent No.2 and perusal of the order sheet maintained by respondent No.1, it is seen that though the matter was considered on several dates of hearing, however, there is no specific indication about filing of objections to the petition by the respondents. Significantly, as observed above, the Presiding Officer who heard the matter on 29.05.2024 was



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transferred and new incumbent has taken charge and after the new incumbent has taken charge, there is no indication that the matter was once again heard. In the circumstances, I find that there is serious infractions and irregularity in conducting the proceedings by respondent No.1. The principles of natural justice is not extended to the fullest extent. Observation of principles of natural justice is not merely issuance of notice, however, hearing and consideration should be meaningful. Therefore, this Court is of the opinion that matter requires re-consideration at the hands of respondent No.1.

11. In the result, the following:

ORDER

(i) The writ petition is ***allowed.***

(ii) The order dated 16.07.2024 in MAGCR 81 of 2023-24 passed by respondent No.1 at Annexure- B is quashed and the proceedings is remanded to respondent No.1 to consider the petition filed by respondent No.2 afresh after affording reasonable opportunity of hearing to all the parties to the proceedings.



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(iii) Respondent No.1 is directed to conclude the proceedings within a period of two months from the date of receipt of certified copy of this order.

(iv) Considering the age of respondent No.2 and for his medical treatment, the amount in deposit before this Court be released in favour of respondent No.2, forthwith.

(v) The interim order passed by this Court directing the petitioner to pay maintenance of Rs.4,000/- and the payment, would not come in way of respondent No.1 in considering the matter afresh on merits.

(vi) Learned counsel for respondent No.2 to instruct respondent No.2 to furnish details of the bank account to the petitioner to enable the petitioner to pay the maintenance of Rs.4,000/- periodically.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

BGN
List No.: 1 Sl No.: 50