



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 35914 OF 2024 (GM-RES)

BETWEEN:

1. SMT. PRAMEELA V.N. D/O. V.S NINGEGOWDA
W/O. G.S. ASHOK, AGED ABOUT 57 YEARS,
R/AT #104, VALALAHALLI VILLAGE,
HETTUR HOBLI, SAKALESHPUR TALUK,
HASSAN DISTRICT, KARNATAKA-573123.
2. ASHOK G.S. S/O. SHIVANNA GOWDA,
AGED ABOUT 58 YEARS,
VALALAHALLI VILLAGE,
HETTUR HOBLI, SAKALESHPUR TALUK,
HASSAN DISTRICT, KARNATAKA-573123.
3. PREETHAM G.A. S/O. G.S. ASHOK
AGED ABOUT 34 YEARS,
R/AT VALALAHALLI VILLAGE,
HETTUR HOBLI, SAKALESHPUR TALUK,
HASSAN DISTRICT, KARNATAKA-573123.
4. PUNITHM G.A. S/O. G.S.ASHOK
AGED ABOUT: 32 YEARS,
R/AT VALALAHALLI VILLAGE,
HETTUR HOBLI, SAKALESHPUR TALUK,
HASSAN DISTRICT, KARNATAKA-573123.
5. T.N. VENKATACHALA
S/O. T.R. NARAYANAGOWDA
AGED ABOUT : 64 YEARS,
R/AT NO.31, 4TH CROSS,
ANUBHAVA NAGAR,
BANGALORE, KARNATAKA-560079.



... PETITIONERS

(BY SRI K.R.NAGARAJA, ADVOCATE)



AND:

1. V.S.VENKATESH GOWDA
S/O. SIDDALINGI SANNE GOWDA,
AGED ABOUT 71 YEARS,
R/AT NO.100, NIRVANA,
NANDINI DOLLAR SCHEME,
NANDINI LAYOUT, BANGALORE,
KARNATAKA-560096.
2. THE MAINTENANCE TRIBUNAL,
ASSISTANT COMMISSIONER,
SAKLESHAPURA SUB DIVISION,
SAKALESHPURA, HASSAN DISTRICT,
KARNATAKA-573134.
3. THE APPELLATE TRIBUNAL,
THE DISTRICT MAGISTRATE,
THE DEPUTY COMMISSIONER,
HASSAN DISTRICT, HASSAN,
KARNATAKA-573201.
4. POLICE INSPECTOR,
SAKALESHPURA RURAL POLICE STATION,
SAKALESHPURA.

... RESPONDENTS

(BY SRI V.S.VENKATESHA GOWDA, ADVOCATE FOR C/R-1,
SRI BOPANNA BELLIAPPA, AGA FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER / ANNEXURE-L PASSED BY THE SECOND RESPONDENT / MAINTENANCE TRIBUNAL DATED 22.01.2024 IN FILE NO. MAG (HI.NAA.RA) 14/2023-24 ALLOWING PETITION OF FIRST RESPONDENT AND DIRECTING PSI OF SAKLESHPUR RURAL POLICE STATION AND DEPUTY TAHASILDHAR, HETHUR HOBOLI, SAKLESHPUR TALUK TO REMOVE OBSTRUCTION OF HADDU BASTHU AND PROVIDE PROTECTION SUBJECT TO DECISION OF CIVIL COURT IN RESPECT OF 0.07 GUNTAS OF LAND IN SY. NO. 24/30 OF VALALAHALLI VILLAGE AND QUASH THE IMPUGNED ORDER/ ANNEXURE-O PASSED BY THE THIRD RESPONDENT / APPELLATE TRIBUNAL DATED 05.11.2024 IN ORDER NO. MAG.HI.NA.RA/32/2023-24 BY ALLOWING APPEAL OF PETITIONERS AND ETC.,



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

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The captioned writ petition is filed assailing the concurrent orders passed by the respondent No.2-Tribunal and the respondent No.3-Appellate Tribunal under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act, 2007').

2. The records would indicate that respondent No.1, a practicing Advocate before this Court, instituted proceedings under Section 4 of the Act, 2007 seeking certain reliefs in respect of land bearing Sy.No.24/30 measuring in all 20 guntas. The respondent No.2-Tribunal, while entertaining the application, proceeded to allow the same and issued directions to the competent authorities to conduct hissa proceedings, fix boundaries and demarcate an extent of 7 guntas allegedly belonging to respondent No.1 in the aforesaid survey number.



3. Feeling aggrieved by the said order, the petitioners preferred an appeal before the respondent No.3–Appellate Tribunal. The Appellate Tribunal, by affirming the order passed by the respondent No.2–Tribunal, dismissed the appeal. It is these concurrent orders which are called in question in the present writ petition.

4. The facts leading to the case, in brief, are as under:

Respondent No.1 is asserting absolute ownership over an extent of 7 guntas in Sy.No.24/30, which in all measures 20 guntas. Respondent No.1 traces his alleged right, title and interest over the subject property on the strength of an oral partition said to have taken place on 29.12.1985, which, according to him, culminated in a registered partition deed dated 31.08.2015. It is his specific claim that an extent of 7 guntas in the aforesaid survey number fell to his share under the said



arrangement and, therefore, he claims exclusive ownership and possession over the same.

5. Alleging interference by the petitioners in respect of the said portion of land, respondent No.1 invoked the provisions of the Act, 2007 by instituting proceedings before the Tribunal.

6. The petitioners, disputing the claim set up by respondent No.1, have simultaneously instituted a suit for partition and separate possession in O.S.No.399/2023 before the competent Civil Court. The petitioners contend that the property in question is the self-acquired property of their father late Sri V.S. Ningegowda, who had purchased the same under a registered sale deed dated 19.09.1979. It is their specific case that, upon the demise of their father, the petitioners, being Class-I legal heirs, alone succeed to the estate and inherit the property. According to the petitioners, respondent No.1, being only the younger brother of late Sri V.S. Ningegowda, has no



semblance of right, title or interest over the disputed property and the claim projected by him is wholly untenable in law.

7. Heard the learned counsel appearing for the petitioners, respondent No.1 appearing as party-in-person and the learned Deputy Government Advocate appearing for respondent Nos.2 and 3.

8. This Court has meticulously examined the averments made in the writ petition, the statement of objections and the documents annexed thereto, as also the documents produced by respondent No.1 along with the statement of objections.

9. In the light of the rival contentions urged by the parties, the following points arise for consideration:

(i) Whether the respondent No.2-Tribunal, while exercising jurisdiction under Section 4 of the Act, 2007, could have directed the revenue authorities to conduct boundary fixation and demarcation in terms

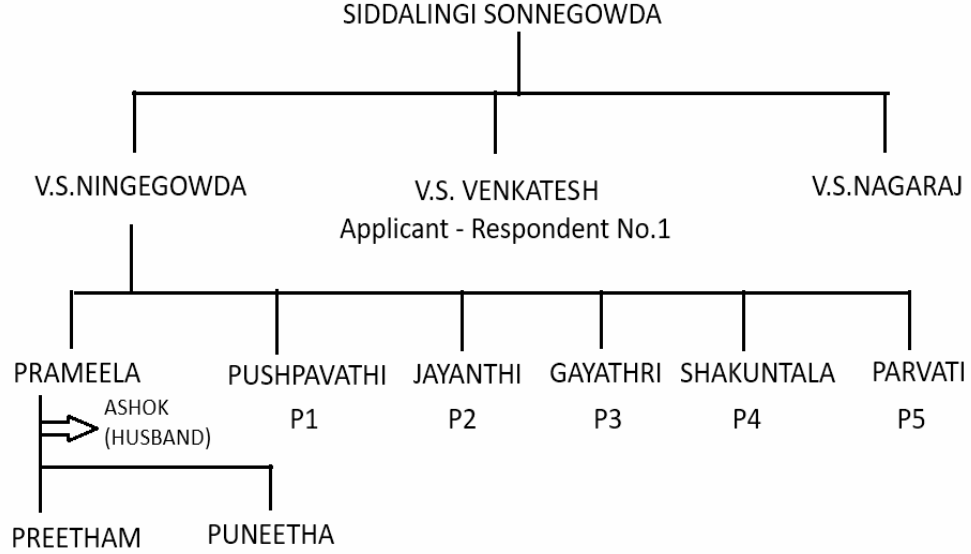


of the registered partition deed dated 31.08.2015 and further proceed to remove the alleged encroachment?

(ii) Whether the powers conferred on the Tribunal under Section 4 of the Act, 2007 extend to adjudication of disputed questions relating to title, possession and encroachment, particularly when such issues involve seriously disputed questions of fact and are already the subject matter of adjudication before the competent Civil Court in O.S. No.399/2023?

Finding on Point Nos.(i) and (ii):

10. Before this Court proceeds to examine the rival pleadings of the parties and the documents relied upon by them, it would be apposite to first refer to the genealogical relationship between the petitioners and respondent No.1. The family tree of the petitioners and respondent No.1 is extracted hereunder for the sake of convenience and clarity:—



11. Before advertng to the scope and ambit of the powers vested in the respondent No.2-Tribunal while addressing the grievances of a senior citizen under the provisions of the Act, 2007, this Court deems it appropriate to first extract the relief sought by respondent No.1 in the application presented before the respondent No.2-Tribunal under Section 4 of the Act.

12. The prayer sought by respondent No.1 in the said application reads as under:-



"I herein respectfully pray that this Hon'ble Authority be pleased to pass orders in the interest of justice and equity.

(a) To direct the respondents not to interfere with the peaceful possession and enjoyment of the schedule properties as more fully described in the schedule to the petition as per document no.5 & 6 as I am the class 1 heir to the propositor of the Joint Hindu Properties of Late Siddalingi Sannegowda.

(b) To direct the respondents to restrain from abusing the Petitioner who is a senior citizen, in filthy language unbecoming of a family member who are all enjoying the properties of my brother Late V.S. Ningegowda.

(c) Direct the respondents to disconnect the flow of sewerage water to the gober gas unit and not to use my property as cow shed and also to store the cow dung including cattle shed to direct them to clear the place at their cost and risk at once.

(d) To issue directions to the authorities viz., the President Panchayath Valalahalli Grama Panchayath, Executive Officer Taluk Panchayath, sakaleshpur and the Tahasildar Sakaleshpur Taluk to consider the Petitions by ordering for an enquiry



to the schedule property and to dispose off the petition in a expeditious manner within a period of 2 months.

(e) To direct the Sixth Respondent, Sakleshpur Rural Station to provide protection to me and my family members.

(f) Any other relief or reliefs to the Petitioner with this Hon'ble Authority deems fit and property in the interest of justice and equity."

13. It would also be apposite for this Court to extract the relief sought by the petitioners in the suit for partition and separate possession instituted in O.S.No.399/2023 before the competent Civil Court. The prayer sought in the said suit is extracted hereunder for immediate reference:-

"ವಾದಿಗಳು ಘನ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಾರ್ಥಿಸಿಕೊಳ್ಳುವುದೇನೆಂದರೆ,
ಈ ದಾವಾದ ಮೆಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಪರಿಗಣಿಸಿ ಮಾನ್ಯ ಘನ
ನ್ಯಾಯಾಲಯವು ಕೃಪೆ ಮಾಡಿ;

1. ದಿನಾಂಕ 31.08.2015 ರಂದು 1, 2 ಮತ್ತು 3ನೇ ಪ್ರತಿವಾದಿಗಳ ನಡುವೆ
ಸಕಲೇಶಪುರ ಉಪನೋಂದಾಣಾಧಿಕಾರಿಗಳ ಕಚೇರಿಯಲ್ಲಿ ಪತ್ರ ಸಂಖ್ಯೆ
1108/2015-16 ರಲ್ಲಿ ನೋಂದಾಣಿಯಾಗಿರುವ ವಿಭಾಗ ಪತ್ರವನ್ನು ಮಾನ್ಯ



ನ್ಯಾಯಾಲಯವು ಆದೇಶದ ಮೂಲಕ ರದ್ದು ಪಡಿಸಬೇಕೆಂದು ಮತ್ತು ಸದರಿ ವಿಭಾಗ ಪತ್ರವು ವಾದಿಗಳನ್ನು ಬದ್ಧಪಡಿಸುವುದಿಲ್ಲ ಎಂದು ಆದೇಶಿಸಬೇಕಾಗಿಯು

2. ದಾವಾ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿ ಮೃತ ನಿಂಗೇಗೌಡನ ಮಕ್ಕಳು ಹಾಗೂ ಕ್ಲಾಸ್-1 ವಾರಸುದಾರರಾದ 1 ರಿಂದ 5ನೇ ವಾದಿಗಳು ಮತ್ತು 3ನೇ ಪ್ರತಿವಾದಿ ಮಾತ್ರಾ 1/6ನೇ ಭಾಗದ ಹಿಸ್ಸಾ ಹಕ್ಕು ಹೊಂದಲು ಹಕ್ಕುಳ್ಳವರಾಗಿರುತ್ತಾರೆ ಎಂದೂ ಘೋಷಿಸಿ, ವಾದಿಗಳಿಗೆ ದಾವಾ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿ 1/6ನೇ ಭಾಗದ ಹಿಸ್ಸಾ ಹಕ್ಕನ್ನು ಹೊಂದುವಂತೆ ಆದೇಶಿಸಿ, ಸದರಿ 1/6ನೇ ಭಾಗದ ಹಿಸ್ಸೆಯನ್ನು ವಾದಿಗಳಿಗೆ ಪ್ರತ್ಯೇಕವಾಗಿ ವಿಭಾಗಿಸಿಕೊಟ್ಟು, ವಾದಿಯವರುಗಳ ಹಿಸ್ಸೆಗೆ ಪ್ರತ್ಯೇಕ ಸ್ವಾಧೀನ ಕೊಡಿಸಿಕೊಡಬೇಕೆಂದು, ಹಾಗೂ

3. ದಾವಾದ ಖರ್ಚು ಸಮೇತ, ಘನ ನ್ಯಾಯಾಲಯದ ವಿವೇಚನೆಗೆ ತೋರಿ ಬರುವ ಇತರೆ ಅವಶ್ಯಕ ಪರಿಹಾರಗಳನ್ನು, ಪ್ರತಿವಾದಿಗಳಿಂದ ವಾದಿಗಳು ಹೊಂದುವಂತೆ ಆದೇಶಿಸಬೇಕಾಗಿಯು, ಹಾಗೂ ವಾದಿಗಳ ದಾವೆಯನ್ನು ವಾದಿಗಳ ಪರವಾಗಿ ಹಾಗೂ ಪ್ರತಿವಾದಿಗಳ ವಿರುದ್ಧವಾಗಿ ಡಿಕ್ರಿಸಬೇಕೆಂದು ನ್ಯಾಯಾಭಿವೃದ್ಧಿ ದೃಷ್ಟಿಯಿಂದ ಪ್ರಾರ್ಥನೆ."

14. Respondent No.1, who is arrayed as defendant No.1 in O.S.No.399/2023, has filed a detailed written statement contesting the claim of the present petitioners. The said written statement is also produced along with the present writ petition and is marked at Annexure-H.



15. This Court is of the considered view that the averments made in paragraphs 4, 5, 9 and 10 of the written statement assume significance while examining the nature of the dispute inter se between the parties. The pleadings contained therein would also have a direct bearing on the question as to whether the respondent No.2-Tribunal has exceeded the jurisdiction vested in it by entertaining an application involving complex and seriously disputed questions of fact relating to title, possession and alleged encroachment, which ordinarily fall within the exclusive domain of a competent Civil Court. Therefore, this Court deems it appropriate to extract paragraphs 4, 5, 9 and 10 of the written statement, which read as under:-

"4. The averments made in paragraph No.2 of the plaint that the plaintiffs and defendant No.3 are the children of Late V.S Ningegowda and Hoovamma and they are the inheritance is admitted to be correct. The further contention of the plaintiff that the suit schedule property old Sy.No.is 24/3 and their father has purchased the 20 guntas of land in total measurement as per the registered



sale deed dated 19.09.1979 by the Late Annegowda S/o Patel Siddegowda and same is registered before the Sakaleshpura Sub-Registrar Office in document NO.527/1979-80 is admitted to be correct. But this defendant denied that the said property is self acquired property of Late V.S.Ningegowda. The further averments in the same para that the Pahani documents were standing in the name of Late V.S.Ningegowda and khata was changed in respect of Sy.No.24/3 measuring 20 guntas is admitted to be correct. After his death the revenue documents were changed on the basis of Pavathikhatha in favour of plaintiff No.1 to 5 and in favour of Defendant No.3 and further averments that except plaintiff and defendant No.3 are having right over the suit schedule properties and others have no right in the said suit schedule property and the suit schedule property is not the joint family property nor ancestral property is totally denied as false.

5. The further averments made in paragraph No.3 in the plaint that the parents of the plaintiff and defendant No.3 by name Late V.S.Ningegowda and Hoovamma have died is admitted and further averments that plaintiffs and defendant No.3 have right in schedule property and they have equal right and owner and except plaintiffs and defendant No.3



others have no right over the suit schedule property is totally denied as false and same has to be proved by the plaintiffs.

9. The defendant No.1 submits that, during the life time of Late SidlingiSannegowda had purchased the suit schedule property in the name of Late V.S.Ningegowda by contributing the joint family funds as he was the elder son in the joint family and taking care of all the joint family properties until December 29th 1985 jointly and the said SidlingiSannegowda had also purchased several other properties. Therefore, Late Ningegowda had no exclusive right over the suit schedule property and same is not the self acquired property as he does not have any independent source of income as such. The 1st defendant was the State Government Officer and he had also contributed the money for purchase of the suit schedule property as well as for development of the joint family properties which are situated in the native village until 2013 till his retirement. It is submitted that during the life time of Late SidlingiSannegowda had taken steps to partition all joint family properties for which Jubani Hissa Draft was made and same was read over to all family members and after their consent Jubani Hissa was made on 29.12.1985 and all family members have



agreed upon and signed the same at that point of time.

10. The defendant No.1 submit that as such the self acquired properties of Hindu Joint Family member if thrown in "common Hotchpot" to be treated as joint family property. As per the Jubani Hissa all family members are in possession and enjoyment of their respective shares which were allotted to them and also all revenue documents are standing in their name in respect of their properties. The defendant No.1 is produced the copy of the mutation registers as DOCUMENT NO: 1&2 respectively. The defendant No. 1 herewith produced the copy of the proceedings of Jubani Hissa, Copy of the Jubani Hissa dated 29.12.1985 and photo copy of Jubani Hissa as DOCUMENT NO.3 TO 5. As per the Jubani Hissa entered in to between family members, the schedule property mentioned in the plaint was also shown as a " House property" and same will be goes in favour of V.Tejas S/o Venkatesh Gowda V.S. who is the 2nd son of Late Sidlingi Sanne gowda and also it has been decided and agreed in the Jubani Hissa the 1st son V.S. Ningegowda and 2nd son V.S.Venkateshgowda have to live together until their life time in the said house property. The said SidlingiSannegowda passed away on 26.06.1987. Accordingly the said house



property should goes to V.S.Venkateshgowda and his son Tejas. V. Since Late Ningegowda V.S. died on 04.12.1998 and also his wife Late Smt. Hoovamma also died on 03.07.1999. The defendant produced the copy of death certificates of both as DOCUMENT NO:6&7 respectively. It is submitted that until their death the defendant No.1 was looking after the welfare of the joint family and further his mother Puttamma also passed away on 24.11.2002. The defendant produced the death certificate of Puttamma as DOCUMENT NO.8. At that point of time the plaintiff No. 5 was not married. However the plaintiff No.2 and 4 have married during 1999 and 2001. It is pertaining to note the defendant No.1 had taken care of them and also performed their marriage by spending his own earned money as a head of the joint family, to keep the family growing further as per the wishes of the elders and as per the Jubani Hissa. He had also performed all family functions and rituals of death persons in the family as per the family wishes until year 2015. In the meanwhile it is pertaining to note that Late V.S.Ninge Gowda has handed over the connected Original sale deed of the house property (Suit schedule property) including family tree as well as income certificate of the year 1997-98 of his family along with one more property situated at Markahalli village in Sy.No.56 which



were all allotted to the defendant No.1, to facilitate the defendant No.1 to take up appropriate action. The defendant No.1 is producing the copies of said documents as DOCUMENT No. 9 to 11 respectively."

16. On a conjoint reading of the prayer sought in the application filed before the respondent No.2–Tribunal under Section 4 of the Act, 2007, the reliefs sought by the petitioners in O.S.No.399/2023 and the defence set up by respondent No.1 in the written statement filed in the said suit, this Court is of the considered view that the core dispute between the parties revolves around the question of title in respect of the property bearing Sy.No.24/30 measuring 20 guntas, out of which respondent No.1 is asserting exclusive ownership over an extent of 7 guntas on the strength of an alleged registered partition deed dated 31.08.2015. The petitioners, however, are seriously disputing the very authenticity and genuineness of the said document and contend that the same is a fabricated



document created to defeat their lawful rights. Such rival claims, in the considered opinion of this Court, necessarily require a full-fledged adjudication before a competent Civil Court on the basis of oral and documentary evidence.

17. Though respondent No.1 is admittedly a senior citizen, it is also not in dispute that he is a practicing Advocate before this Court. This Court is therefore of the view that respondent No.1 could not have invoked the summary jurisdiction under Section 4 of the Act, 2007 for adjudication of disputed civil rights relating to title, partition, possession and alleged encroachment. The nature of relief sought in the application filed under Section 4, extracted supra, itself clearly demonstrates that the dispute projected before the Tribunal was not one pertaining to maintenance or welfare simpliciter, but substantially involved adjudication of civil rights over immovable property.



18. These observations gain further significance in the light of the stand taken by respondent No.1 in the pending suit for partition and separate possession in O.S.No.399/2023, wherein the present petitioner no.1, who is the daughter of late Sri V.S. Ningegowda, and petitioner Nos. 2 to 4 are her husband and children respectively, have specifically asserted that the property in question is the self-acquired property of petitioner No.1's father, acquired under a registered sale deed dated 19.09.1979 and that respondent No.1, being merely the younger brother of their father, has no semblance of right, title or interest over the said property. The petitioners have further alleged that respondent No.1 has taken undue advantage of the circumstances and has created a fabricated partition deed to unlawfully lay claim over a portion of the property.

19. A closer scrutiny of the pleadings in the written statement, particularly paragraphs 9 and 10 extracted supra, would however indicate that respondent No.1 has



projected a completely different case. It is his specific contention that the property, though purchased in the name of late Sri V.S. Ningegowda, was in fact acquired during the lifetime of the propositus Siddalingi Sannegowda, who is the father of respondent No.1 and grandfather of the petitioner No.1. According to respondent No.1, the property was purchased in the name of Sri V.S. Ningegowda only because he was the eldest son of the family. Respondent No.1 has further contended that even assuming that the property stood in the exclusive name of late Sri V.S. Ningegowda, the same was subsequently thrown into the common hotchpotch and treated as joint family property. Proceeding on this premise, respondent No.1 asserts that there was an oral partition in the year 1985, which was subsequently reduced into writing under the registered partition deed dated 31.08.2015, whereunder an extent of 7 guntas allegedly fell to his share.



20. The petitioners, on the contrary, have categorically disputed the very existence and validity of the alleged oral partition as well as the registered partition deed dated 31.08.2015. Thus, from the pleadings exchanged between the parties, it clearly emerges that while the petitioners are asserting exclusive inheritance rights by contending that the property is the self-acquired property of their father, respondent No.1 is setting up a rival plea that the property constitutes joint family property acquired out of joint family nucleus and subsequently partitioned amongst the members of the family.

21. Therefore, the dispute between the parties is essentially one involving adjudication of complicated questions relating to title, nature of property, validity of the alleged partition, rival inheritance claims and alleged encroachment, all of which would necessarily require appreciation of evidence in a properly constituted civil trial. In the backdrop of these seriously disputed and



complex questions of fact and law emerging from the pleadings and documents placed by both parties, this Court is of the considered view that the respondent No.2–Tribunal has clearly exceeded the limited jurisdiction vested in it under the Act, 2007 by embarking upon adjudication of issues which squarely fall within the domain of the competent Civil Court.

22. This Court is therefore of the view that, notwithstanding the fact that respondent No.1 is a senior citizen, he could not have invoked the provisions of the Act, 2007 in the peculiar facts of the present case, particularly when he has already entered appearance and filed a detailed written statement in the pending partition suit in O.S.No.399/2023, wherein the very same questions relating to title and entitlement are directly and substantially in issue.

23. The object and purpose of Section 4 of the Act, 2007 is to provide a speedy and efficacious remedy to



senior citizens who are neglected or denied maintenance and basic amenities by children or relatives who are otherwise legally obligated to maintain them. The jurisdiction conferred on the Tribunal under the Act, 2007 is essentially summary in nature and is intended to secure the welfare and protection of senior citizens in matters relating to maintenance, residence and protection from abandonment. The provisions of the Act, 2007 cannot be expanded so as to confer jurisdiction upon the Tribunal to adjudicate intricate questions relating to title, partition, validity of documents, fixation of boundaries or allegations of encroachment, all of which squarely fall within the exclusive domain of a competent Civil Court.

24. In the present case, respondent No.1, under the guise of invoking Section 4 of the Act, 2007, has in substance sought adjudication of civil rights by seeking fixation of boundaries, demarcation of land and removal of alleged encroachment on the strength of a registered partition deed dated 31.08.2015. The very said partition



deed is seriously disputed by the petitioners, who have not only questioned its genuineness and validity but have also instituted a comprehensive suit for partition and separate possession in O.S.No.399/2023, wherein the rival claims of the parties in respect of the very same property are directly and substantially in issue. Once the validity of the partition deed, nature of the property and entitlement of the parties are all subjects of adjudication before the competent Civil Court, the Tribunal exercising summary jurisdiction under the Act, 2007, could not have ventured into deciding such contentious issues indirectly by directing fixation of boundaries and removal of encroachment. The orders passed by the Tribunal virtually amount to recognition and enforcement of the alleged title claimed by respondent No.1 under the disputed partition deed, which is wholly impermissible in proceedings under the Act, 2007. Therefore, this Court is of the considered view that respondent No.1 could not have maintained the application under Section 4 of the Act, 2007 seeking the



aforesaid reliefs and the respondent No.2–Tribunal has clearly acted beyond the scope of jurisdiction vested in it under the statute.

Accordingly, Point Nos. (i) and (ii) are answered in the ***Negative***.

25. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

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

(ii) The impugned order dated 22.01.2024 passed by the respondent No.2–Tribunal as per Annexure-L, and the order dated 05.11.2024 passed by the respondent No.3 –Appellate Tribunal as per Annexure-O, affirming the same are hereby set aside;

(iii) Liberty is however reserved to respondent No.1 to work out his rights and remedies in the pending suit in O.S. No.399/2023 and all rival contentions of the



parties are left open to be adjudicated by the competent Civil Court in accordance with law.

(iv) Pending interlocutory applications, if any, stands disposed of.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

CA/CT:GSM
LIST NO.: 19 SL NO.: 5