

06-01-2022
Court No.3
Sh/25.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI**

C.O. 115 OF 2021

**Sri Biman Das & Anr.
Vs.
Smt. Rekha Rani Das.**

Mr. Sunil Kumar Sarkar.
... For the Petitioners.

From the endorsement of the registry it appears that no caveat was lodged to defend the said revisional application by the opposite party.

This revisional application arises from an order dated November 18, 2021 passed by the Learned Sub-divisional magistrate (SDM), Siliguri, District: Darjeeling in MISC Petition Case No.28 of 2020, filed by a senior citizen, mother under Sections 4, 20 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, whereby and whereunder the two sons of the said mother were directed to pay a sum of Rs.10,000/- each as maintenance to the mother every month.

The petition filed by the mother in Misc Petition Case No.28 of 2020 pleads that the mother is of 73 years old widow with various severe ailments and is the owner of a house property. Her husband died on April 12, 2010.

The petitioners in this revisional application are the two grown up sons.

After demise of the husband the opposite party mother, namely, Smt. Rekha Rani Das has been residing with her younger married daughter and her husband, who look after the mother. Another married daughter, who is residing at Delhi also looks after the mother. The averments also disclose that the mother was subjected to torture by the grand children out of her sons. The sons also conspired against the mother so that the property can be transferred in their favour. After the torture and assault being done towards the mother of the petitioners even by her grand children, she was compelled to be treated in Nursing home. The said petition filed by the mother also discloses diverse shameful acts on the part of the petitioner sons towards their mother.

The sons have also filed their written statement, which inter alia, discloses a deed of gift allegedly dated December 21, 2020 said to have been executed by the mother to a third party. The petitioners contend that under the grab of such deed of gift the mother received a substantial money. The petitioner sons also filed their notes on argument in the said Misc Petition Case No.28 of 2020. From perusal of the said written statement and the notes on argument it appears that the petitioner son had denied the allegations levelled by the mother in the said Misc. Petition Case No.28 of 2020.

Mr. Sunil Kumar Sarkar, learned advocate appearing for the petitioners placed the said written statement and also notes on argument filed by his

clients and submitted that, the mother is otherwise adequately protected financially and she needs no financial support or assistance from the petitioners. He submitted that, the petitioners are carrying out their small businesses to maintain their livelihood. The income of the petitioners are very moderate and not as such, that after maintaining their own family and commitments they are in a position to provide maintenance to the mother as directed in the said impugned order.

After considering the arguments made on behalf of the petitioners and after perusing the materials on record, it appears that, the learned SDM, Siliguri has come to a logical and reasonable conclusion by passing the said impugned order dated November 18, 2021 after considering all the relevant materials before it. The parties were adequately heard with sufficient opportunity of hearing. The order impugned was passed squarely within the jurisdiction and statutory mandate as prescribed under the Statute. Learned Court of SDM, Siliguri has acted within its jurisdiction and did not over-reached. The impugned order on the face of it does not show any perversity or material irregularity and error.

Considering the scope and object of enactment of the relevant Statute under which the said impugned order was passed, this Court is of the firm view that the impugned order does not call for any interference.

Accordingly, the impugned order dated November 18, 2021 has been affirmed.

The revisional application being **CO 115 of 2021** stands dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(ANIRUDDHA ROY, J)