

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.255 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Katihar

=====

RAMBILASH GUPTA SON OF LATE MAHAVIR GUPTA R/O MOHALLA
ANATHALAY ROAD WARD NO.21, DISTRICT- KATIHAR... Petitioner
Versus

1. THE STATE OF BIHAR THROUGH THE SECRETARY DEPARTMENT
OF HOME BIHAR PATNA BIHAR
2. THE DISTRICT MAGISTRATE KATIHAR BIHAR
3. THE SUPERINTENDENT OF POLICE DISTRICT KATIHAR BIHAR
4. THE INCHARGE OF TOWN THANA KATIHAR DISTRICT KATIHAR
KATIHAR
5. ANAND KISHORE SON OF RAMBILASH GUPTA R/O MOHALLA-
ANATHALAY ROAD WARD NO.21 DISTRICT- KATIHAR
6. RINA ANAND WIFE OF ANAND KISHORE R/O MOHALLA-
ANATHALAY ROAD WARD NO.21 DISTRICT- KATIHAR

... Respondents

=====

Appearance :

For the Petitioner : Mr.Anupa Nand Jha, Adv.
For the Respondents : Mr.Sanjay Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 18-03-2023

Heard learned counsel for the petitioner and the learned
counsel for the State.

2. The present criminal writ has been filed for the
following reliefs :

- (i) For protection of the life of the petitioner, his wife
and son who kicked out by the Respondent No. 5 & 6.
- (ii) For protection of the entire residential house in
question which was fraudulently purchased from the
petitioner through Sale deed by the Respondent no. 5 &
6.



(iii) For restraining the Respondent no. 5 & 6 not to interfering with peaceful life of over age old petitioner, wife and his son.

(iv) For restraining the Respondent no. 5 & 6 not to sold out the entire premises/as mentioned in the Sale Deed without the legal permission of the petitioner.

(v) To pass such other order or orders in shape of a consequential relief to which the petitioner may be found legally entitled to in the facts and circumstances of the instant case as prayed by the petitioner.

3. Counsel for the petitioner submits that the petitioner is a senior citizen aged about more than ninety years. His son, respondent no. 5, who is posted in Army Engineering Regiment, has fraudulently executed a sale deed of the entire property in favour of his wife and thereafter trying to humiliate and subject to torture by him, as such, the old aged petitioner seeks protection of his life and property being the senior citizen. Counsel for the petitioner submits that in this regard the petitioner has filed representation before the District Magistrate, Katihar, but, till date no action was taken. Counsel submits that he has made representation to the Superintendent of Police, Katihar, also, but, nothing happened. Counsel submits that in the year 2007 a Special Act has been enacted, namely, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. This Act has been



formulated with the objective to provide for more effective provisions for the maintenance of welfare of parents and senior citizen guaranteed and recognized under the Constitution for matters connected and incidental thereto.

4. Counsel for the State submits that matter is pending before the proper authority and petitioner may be directed to move before the same authority.

5. Upon going through the pleadings and the documents on record as well as the position of law it is crystal clear that in the Parliament the said Act has been enacted for four basic needs; (a) appropriate mechanism to be set-up to provide need based maintenance to the parents and senior citizens, (b) providing better medical facilities to senior citizens, (c) for institutionalisation of a suitable mechanism for protection of life and property of older person; and (d) setting up of old age homes in every district. It is important to mention here that Government of Bihar has framed a Rule, namely, Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012, dated 07.09.2012. In Rule 3 of the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012, provision for constitution of Maintenance Tribunal is there. The constitution of Appellate Tribunal and related procedures have been discussed in Chapter III of Sections 16 to 19 of the Bihar



Maintenance & Welfare of Parents & Senior Citizens Rules, 2012.

In Chapter V of Section 21 Duties and Powers of the District Magistrate are also described as follows :

“CHAPTER V

Duties and Powers of the District Magistrate

21. Duties and powers of the District Magistrate.- (1) *The District Magistrate shall perform the duties and exercise the powers mentioned in sub-rule (2) and (3) so as to ensure that the provisions of the Act are properly carried out in his district.*

(2) It shall be the duty of the District Magistrate to:

(i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;

(ii) oversee and monitor the work of Maintenance Tribunals and Maintenance Officers of the district with a view to ensuring timely and fair disposal of applications for maintenance, and execution of Tribunals' orders;

(iii) oversee and monitor the working of old age homes in the district so as to ensure that they conform to the standards laid down in these rules, and any other guidelines and orders of the Government;

(iv) ensure regular and wide publicity of the provisions of the Act, and Central and State Governments' programmes for the welfare of senior citizens;

(v) encourage and coordinate with panchayats, municipalities, Nehru Yuva Kendras, educational institutions and especially their National Service Scheme Units, organizations, specialists, experts, activists, etc. working in the district so that their resources and efforts are effectively pooled for the welfare of senior citizens of the district;



(vi) ensure provision of timely assistance and relief to senior citizens in the event of natural calamities and other emergencies;

(vii) ensure periodic sensitization of officers of various Departments and Local Bodies concerned with welfare of senior citizens, towards the needs of such citizens, and the duty of the officers towards the latter;

(viii) review the progress of investigation and trial of cases relating to senior citizens in the district, except in cities having a Police Commissioner;

(ix) ensure that adequate number of prescribed application forms for maintenance are available in offices of common contact for citizens like Panchayats, Block Development Offices, Tahsildar offices, District Social Welfare Offices, Collectorate, Police Stations etc;

(x) promote establishment of dedicated Help lines for senior citizens at district headquarters, to begin with; and

(xi) perform such other function as the Government, may by order, assign to the District Magistrate in this behalf, from time to time.

(3) With a view to performing the duties mentioned in sub-rule(2), the District Magistrate shall be competent to issue such directions, not inconsistent with the Act, these rules, and general guidelines of the Government, as may be necessary, to any concerned Government or statutory agency or body working in the district, and especially to the following:

(a) Officers of the Government in the Police, Health and Publicity Departments, and the Department dealing with welfare of senior citizens;

(b) Maintenance Tribunals and Conciliation Officers;

(c) Panchayats and Municipalities; and

(d) Educational institutions.”



Chapter VI of Rule 22 of the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012, is as follows :

“CHAPTER VI

Protection of Life and Property of Senior Citizens

22.Action plan for the protection of life and property of Senior Citizens.- (1) The District Superintendent of Police and in the case of cities having a Police Commissioner, such Police Commissioner shall take all necessary steps, subject to such guidelines as the Government may issue from time to time for the protection of life and property of senior citizens.

(2) Without prejudice to the generality of sub-rule (1):

(i) each police station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves (i.e. without there being any member in their household who is not a senior citizen);

(ii) a representative of the police station together as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of at least once a month, and shall, in addition, visit them as quickly as possible on receipt of a request of assistance from them;

(iii) complaints/problems of senior citizens shall be promptly attended to, by the local Police;

(iv) one or more Volunteers' Committee(s) shall be formed for each Police Station which shall ensure regular contact between the senior citizens, especially those living by themselves, on the one hand, and the police and the district administration on the other;

(v) the District Superintendent of Police or, the Police Commissioner as the case may be, shall cause to be publicized widely in the media and through the Police Stations, at regular intervals, the steps being taken for the protection of life and property of senior citizens;

(vi) each Police Station shall maintain a separate Register containing all important particulars relating to offences committed against Senior Citizens as in Annexure IV;

(vii) the Register referred to in clause (vi) shall be kept available for public inspection, and every officer inspecting a Police Station shall invariably review the status as entered in the Register;



(viii) the Police Station shall send a monthly report of such crimes to the District Superintendent of Police by the 10th of every month;

(ix) list of Do's and Don'ts to be followed by senior citizens, in the interest of their safety will be widely publicized;

(x) antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens;

(xi) community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighborhood, Residents' Welfare Associations, Youth Volunteers, Non- Government Organizations, etc;

(xii) the District Superintendent of Police shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the status of crimes against senior citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month, as in Annexure V;

(xiii) the District Magistrate shall cause the report to be placed before the District level Committee constituted under rule 24;

(xiv) The Director General of Police shall cause the reports submitted under clause

(xii) to be compiled, once a quarter, and shall submit them to the Government every quarter as well as every year for, inter-alia, being placed before the State Council of Senior Citizens constituted under rule 23."

6. Conclusively speaking that the responsibility under the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012, has been casted upon the District Magistrate and the Superintendent of Police to look-after and ensure the life and property of the senior citizens.

7. In this background and in the light that representation has already been filed before the District Magistrate as well as the



Superintendent of Police, in this view of the matter, both, the District Magistrate and the Superintendent of Police, are hereby directed to do all the needful for protecting the petitioner and his old aged wife in accordance with Rules 21 and 22 of the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012. If the protection of life and property shall not be granted to the petitioner within a week from receiving of this order before them, they shall be personally liable for not obeying the statutory provisions of Rules 21 and 22 of the Bihar Maintenance and Welfare of Parents and Senior Citizens Rules, 2012.

8. Both the authorities are hereby also directed to facilitate them in compliance of exhausting Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, i.e., for transfer of property in the name of wife of petitioner’s son to be void.

9. With this direction, this application is **disposed off**.

(Dr. Anshuman, J)

Shamshad/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	05.04.2023
Transmission Date	05.04.2023

