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W.P.No.15270 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15270 of 2023

and

W.M.P.No.14760 of 2023

R.Elaiyammal

... Petitioner

Vs.

1. The District Collector,
Office of District Collectorate,
Tiruchengode Road,
Namakkal-637 003.

2. The Revenue Divisional Officer cum Sub Divisional Magistrate,
(The Maintenance and Welfare of Parents
and Senior Citizens Act-Tribunal),
Thiruchengode, Namakkal District.

3. The Revenue Thasildhar,
Paramathy Velur Taluk,
Namakkal District.

4. Thirunavukarasu

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, calling for the entire records pertaining to the impugned order passed by the 2nd respondent in Pa. Mu.



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No. 276 / 2023 / C dated 02.05.2023 and consequentially directing the 3rd respondent to cancel the patta transfer order in 674 / II / 2007 (D141600674) dated 20.04.2007 and issue the Joint Patta in the name of Legal Heirs of the Deceased Late Ramasamy Gounder

For Petitioner : Mr.MA.P.Thangavel

For Respondents : Mr.U.Baranidharan,
Additional Government Pleader,
(for R1 to R3);

Mr.T.Mohan, Senior Counsel for
Mr.M.Guru Prasad (for R4).

ORDER

The order passed by the Revenue Divisional Officer cum Sub Divisional Magistrate, (The Maintenance and Welfare of Parents and Senior Citizens Act-Tribunal) in a proceeding dated 02.05.2023 is under challenge in the present writ petition. Further direction is sought for to direct the 3rd respondent Revenue Tahsildar to cancel the patta transfer effected based on the unregistered release deed which is disputed.

2. The petitioner is a senior citizen aged about 84 years old. Her husband late V.Ramasamy Gounder has inherited the ancestral property by way of registered partition in Document No.53 of 1969 dated 20.01.1969.



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The husband of the petitioner was allotted A-schedule property and he had enjoyed along with one son and daughter as Hindu Undivided Family. The husband of the petitioner died intestate. As per the Hindu Succession Act, the husband of the petitioner, son and daughter are equally entitled to get $1/3^{\text{rd}}$ share in the agricultural property out of which the petitioner being the wife is also entitled for $1/3^{\text{rd}}$ share in her husband's share. It is further stated that the husband of the petitioner possessed self-acquired property and was getting rental income from Ponni Sugar Mill as well Tailoring Training Institute. The petitioner states that the son and daughter are also having equal share.

3. After the death of the husband of the petitioner, the 4th respondent who is the son of the petitioner created a sham and nominal unregistered partition cum release deed dated 23.01.2006 by impersonating the signature of the deceased husband of the petitioner and put thumb impression of the petitioner and her deceased husband in Rs.100/- stamp paper with hand and glove of notary advocate in the presence of two fake witnesses. Based on the said unregistered partition cum release deed dated 23.01.2006, the Tahsildar has transferred the patta in the name of the 4th respondent, son of the petitioner.



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4. The petitioner was not being maintained by the 4th respondent son and she was not in a position to maintain herself. Thus, she approached the competent authority under the Senior Citizen Act. The competent authority conducted an inquiry based on the statement of the witnesses and considering the facts and circumstances, the authority competent granted the relief to the petitioner by directing the 4th respondent to pay a sum of Rs.9500/- per month towards maintenance to the petitioner, and for cancellation of patta, the petitioner was granted liberty to approach the competent appellate authority under the Patta Passbook Act. Not satisfied with the said order, the petitioner has filed the present writ petition.

5. The learned counsel for the petitioner Mr.Ma.P.Thangavel would submit that the petitioner is now aged about 84 years. Unregistered partition cum release deed was executed in a fraudulent manner depriving the right of the petitioner to enjoy the property. She was thrown out of the house and now she is residing in a separate house independently. The 4th respondent, who is none other than the son of the petitioner, has not looked after the petitioner and further harassed her in many ways for the



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purpose of grabbing the entire property without giving any share to the other heirs. The competent authority instead of cancelling the unregistered partition cum release deed has granted the relief by directing the 4th respondent to pay a sum of Rs.9500/- per month to the petitioner. Thus, the present writ petition is filed.

6. The learned Senior Counsel Mr.T.Mohan appearing on behalf of the 4th respondent would oppose by stating that the 4th respondent is ready and willing to maintain the petitioner. He is ready to provide an independent accommodation and willing to pay the maintenance to her. Under the provisions of the Senior Citizen Act, the authority competent has no power to cancel the unregistered partition cum release deed executed between the parties. Name transfer in the patta was effected soon after the registration of the release deed by the authorities which cannot be cancelled under the Senior Citizen Act. Therefore, the writ petition is to be rejected by confirming the relief granted by the competent authority under the Senior Citizen Act.

7. The learned Government Pleader appearing on behalf of the respondents 1 to 3, made a submission that the patta transfer was effected



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based on the applications submitted by the 4th respondent. It is apparent that the Revenue Authorities have to grant patta, cancel the patta or to effect name transfer, by following the procedures as contemplated under the Tamil Nadu Patta Passbook Act and Patta Passbook Rules. They are bound to verify the genuinity and sanctity of the right, established by the applicant for grant of patta or to effect name transfers. An inquiry is mandated under the provisions of the Act and Rules. Therefore, an unregistered partition cum release deed, which is disputed between the parties, cannot be a ground to effect name transfer in the Patta passbook.

8. Section 3 of the Patta Passbook Act states that the owner of the property is eligible to submit an application for grant of patta. Thus, the ownership of the property must be established for the purpose of grant of patta. This being the pre-condition for entertaining an application under Patta Passbook Act, based on an unregistered partition cum release deed and without conducting property inquiry, patta cannot be granted nor name transfer can be effected.

9. The power of the authority under the Senior Citizen Act has been considered by the three judges bench of the Hon'ble Supreme Court of



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India, in the case of the ***S.Vanitha Vs. Deputy Commissioner, Bengaluru***

Urban District and Others, reported in ***2021 15 SCC 730*** and its relevant

paragraphs are extracted as under:

“24. Another distinction between sub-section (1) and sub-section (2) of Section 23 must also be noticed. Under sub-section (1), where a transfer has been made by a senior citizen subject to the condition that the transferee will provide for basic amenities or physical needs of the transferor and if there is a failure of the transferee to fulfil the condition, two consequences follow : (i) the transfer of property shall be deemed to have been made by fraud or coercion or under undue influence; and (ii) the transfer shall, at the option of the transferor, be declared to be void by the Tribunal. The deeming consequence which is provided for in sub-section (1) is not incorporated in sub-section (2). Sub-section (2), in contradistinction, stipulates that the right to receive maintenance can be enforced against a gratuitous transferee or a transferee with notice of the pre-existing right of a citizen to receive maintenance out of an estate notwithstanding who is the transferee of the estate. In keeping with the salutary public purpose underlying the enactment of the legislation, the expression “transfer” would include not only the absolute transfer of property but also transfer of a right or interest in the



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property. This would also be in consonance with the provisions of Section 2(f) which defines the expression “property” to include “rights or interests in such property”. The expression “transfer” not having been defined specifically by the legislation, it must receive an interpretation which would advance the beneficent object and purpose of its provisions. Sub-section (2) of Section 23 speaks of the enforcement of the “right to receive maintenance” which is more comprehensive in its nature, than merely enforcing an order for maintenance passed under Section 9 of the Act.

25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a “right to receive maintenance out of an estate” and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is



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necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after advertting to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The



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issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner.

D. A woman's right of residence : safeguard against domestic violence

26. In arriving at a decision of this issue it becomes necessary to elucidate the right, which is asserted by the appellant. The appellant has submitted that the premises constitute a “shared household” within the meaning of Section 2(s) of the PWDV Act, 2005. Section 2(s) defines the expression “shared household” in the following terms:

“2. (s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in



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the shared household;”

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27. Section 19 [“19. Residence orders.—(1) While disposing of an application under sub-section (1) of Section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;(b) directing the respondent to remove himself from the shared household;(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:Provided that no order under clause (b) shall be passed against any person who is a woman.”] contemplates the passing of a residence order by the Magistrate on an application under sub-section (1) of Section 12 of the PWDV Act, 2005. The essence of the



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submission of the appellant is that the order of eviction which has been made in the exercise of the summary powers entrusted by the Senior Citizens Act, 2007 would completely displace the appellant from seeking recourse to her remedies under Section 12(1) read with Section 19 of the PWDV Act, 2005 in respect of the premises, which she claims to be her shared household. The definition of the expression “shared household” in Section 2(s) uses the familiar legislative formula of a “means and includes” definition.

28. Where the definition of an expression in an enactment adopts a “means and includes” stipulation, it is intended to be exhaustive. The “means” part of the definition indicates what would normally fall within the ambit of the expression, while the “includes” element gives it an extended meaning. Together they indicate that the legislature has provided for an exhaustive enumeration of what falls within the ambit of the definition.

28.1. Justice G.P. Singh in his seminal treatise on the Principles of Statutory Interpretation [G.P. Singh, Principles of Statutory Interpretation, 14th Edn. (LexisNexis, 2016) pp. 197-199.] observes:

“The Legislature has the power to define a word even artificially. So the definition of a word in the definitions section may either be restrictive of its



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ordinary meaning or it may be extensive of the same. When a word is defined to “mean” such and such, the definition is prima facie restrictive and exhaustive.”

28.2. On the other hand, “includes” is titled so as to comprehend an extensive meaning:

“Whereas, where the word defined is declared to “include” such and such, the definition is prime facie extensive. When by an amending Act, the word “includes” was substituted for the word “means” in a definitions section, it was held that the intention was to make it more extensive.....”

28.3. The use of the expression “means” is intended to make it exhaustive. On the other hand, the use of the expression “includes” is intended to make it more extensive. The legislature by using an expression “includes” evinces, notwithstanding the meaning of the phrase, an intention:

“to enlarge the meaning of the words or phrases occurring in the body of the statute.”

*“**Includes**” is utilised so as to comprehend:*

“not only such things as they signify according to their nature and import but also those things which the interpretation clause declares that they shall include.”



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28.4. *However, when a statutory definition incorporates the “means and includes” approach, the intent is to make the definition exhaustive.*

“Further, a definition may be in the form of ‘means and includes’, where again the definition is exhaustive.”

29. *The definition of “shared household” in Section 2(s) of the PWDV Act, 2005 is exhaustive. This has also recently been held to be so, by a judgment of a three-Judge Bench of this Court, delivered by Ashok Bhushan, J. in Satish Chandra Ahuja v. Sneha Ahuja [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] (Satish Chandra). The definition of the expression “shared household” in Section 2(s) of the PWDV Act of 2005 is in two parts : in the means part of the definition the expression “shared household” means*

(i) A household where the person aggrieved lives in a domestic relationship either singly or along with the respondent or;

(ii) At any stage has lived in a domestic relationship either singly or along with the respondent.



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This is followed by an inclusive element, so as to cover such a household (i) whether owned or tenanted either jointly by the aggrieved person and the respondent, or (ii) owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title or equity. This has also been given an inclusive or extended meaning, which extends to a household which may belong to the joint family of which a respondent is a member, irrespective of whether the respondent or the aggrieved person have any right, title or interest in the shared household. The last part of the inclusive definition is intended to extend the meaning of a shared household to a situation where the household in fact belongs to a joint family, of which the respondent is a member. The legislature has made it clear that though neither the respondent, nor the aggrieved person in such case may have a right, title or interest in the shared household it would irrespective fall within the ambit of the definition.

30. The meaning which has been attributed above to the plain language of the definition is in consonance with the judgment of the three-Judge Bench in Satish Chandra [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] where it has been explained as follows : (SCC pp. 449-50, para 59)

“59. ... the definition can be divided in two parts,



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first, which follows the word “means” and second which follows the word “includes”. The second part which follows “includes” can be further sub-divided in two parts. The first part reads ‘shared household means a household where the person aggrieved has lived or at any stage has lived in a domestic relationship either singly or along with the respondent’. Thus, first condition to be fulfilled for a shared household is that person aggrieved lives or at any stage has lived in a domestic relationship. The second part sub-divided in two parts is— (a) includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent and owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity, and (b) includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household. In the above definition, two expressions, namely, “aggrieved person” and “respondent” have occurred. From the above definition, following is clear— (i) it is not requirement of law that aggrieved person may either own the premises jointly or singly or by tenanting it



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jointly or singly; (ii) the household may belong to a joint family of which the respondent is a member irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household; and (iii) the shared household may either be owned or tenanted by the respondent singly or jointly.”

31. After noticing the ambit of the definition of “shared household” and the object and purpose of the PWDV Act of 2005, Ashok Bhushan, J. noted : (Satish Chandra case [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] , SCC p. 453, para 68)

“68. ... Section 2(s) read with Sections 17 and 19 of Act, 2005 grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.”

32. The expression “respondent” has been defined in Section 2(q) of the PWDV Act of 2005 in the following terms:

*“2. (q) “**respondent**” means any adult male person who is, or has been, in a domestic relationship with*



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the aggrieved person and against whom the aggrieved person has sought any relief under this Act:”

33. Noticing the above definition and the provisions of Section 2(s), the Court in Satish Chandra [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] held : (SCC p. 453, para 69)

“69. ... The definition of “shared household” as noticed in Section 2(s) does not indicate that a shared household shall be one which belongs to or taken on rent by the husband. We have noticed the definition of “respondent” under the Act. The respondent in a proceeding under the Domestic Violence Act can be any relative of the husband. In [the] event, the shared household belongs to any relative of the husband with whom in a domestic relationship the woman has lived, the conditions mentioned in Section 2(s) are satisfied and the said house will become a shared household.”

The Bench concluded that : (Satish Chandra case [Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 : (2021) 1 SCC (Civ) 325 : (2021) 1 SCC (Cri) 667] , SCC p. 462, para 91)

“91.1. The definition of “shared household” given in



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Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share.”

E. Harmonising competing reliefs under the PWDV Act, 2005 and the Senior Citizens Act, 2007

34. Section 36 [“36. Act not in derogation of any other law.—The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.”] of the PWDV Act, 2005 stipulates that the provisions of the Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. This is intended to ensure that the remedies provided under the enactment are in addition to other remedies and do not displace them. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is undoubtedly a later Act and as we have noticed earlier, Section 3 stipulates that its provisions will have effect, notwithstanding anything inconsistent contained in any other enactment. However, the provisions of Section 3 of the Senior Citizens Act, 2007 giving it overriding force and effect, would not by themselves be conclusive of an intent to deprive a woman who claims a right in a shared household, as under the PWDV Act, 2005. Principles of statutory



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interpretation dictate that in the event of two special Acts containing non obstante clauses, the later law shall typically prevail. [Solidaire (India) Ltd. v. Fairgrowth Financial Services Ltd., (2001) 3 SCC 71] In the present case, as we have seen, the Senior Citizen's Act, 2007 contains a non obstante clause. However, in the event of a conflict between special Acts, the dominant purpose of both statutes would have to be analysed to ascertain which one should prevail over the other. The primary effort of the interpreter must be to harmonise, not excise. A two-Judge Bench of this Court, in Bank of India v. Ketan Parekh [Bank of India v. Ketan Parekh, (2008) 8 SCC 148] , in examining a similar factual scenario, observed that : (SCC p. 160, para 28)

“28. In the present case, both the two Acts i.e. the Act of 1992 and the Act of 1993 start with the non obstante clause. Section 34 of the Act of 1993 starts with non obstante clause, likewise Section 9-A (sic 13) of the Act of 1992. But incidentally, in this case Section 9-A came subsequently i.e. it came on 25-1-1994. Therefore, it is a subsequent legislation which will have the overriding effect over the Act of 1993. But cases might arise where both the enactments have the non obstante clause then in that case, the proper perspective would be that one has to see the subject and the dominant purpose for which the special



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enactment was made and in case the dominant purpose is covered by that contingencies, then notwithstanding that the Act might have come at a later point of time still the intention can be ascertained by looking to the objects and reasons. However, so far as the present case is concerned, it is more than clear that Section 9-A of the Act of 1992 was amended on 25-1-1994 whereas the Act of 1993 came in 1993. Therefore, the Act of 1992 as amended to include Section 9-A in 1994 being subsequent legislation will prevail and not the provisions of the Act of 1993.”

This principle of statutory interpretation was also affirmed by a three-Judge Bench of this Court in Pioneer Urban Land & Infrastructure Ltd. v. Union of India [Pioneer Urban Land & Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416 : (2019) 4 SCC (Civ) 1] .

35. In the present case, Section 36 of the PWDV Act, 2005, albeit not in the nature of a non obstante clause, has to be construed harmoniously with the non obstante clause in Section 3 of the Senior Citizens Act, 2007 that operates in a separate field.

36. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest.



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The PWDV Act, 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, “is widely prevalent but has remained largely invisible in the public domain”. The Statement of Objects and Reasons indicates that while Section 498-A of the Penal Code, 1860 created a penal offence out of a woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would “provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society”. The ambit of the Bill has been explained thus:

“4. The Bill, inter alia, seeks to provide for the following—

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living



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with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression “domestic violence” to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering



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a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc.”

37. The above extract indicates that a significant object of the legislation is to provide for and recognise the rights of women to secure housing and to recognise the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act, 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act, 2005, would defeat the object and purpose which Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act,



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2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act, 2007.

38. This Court is cognizant that the Senior Citizens Act, 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the civil courts, under Section 8. The jurisdiction of the civil courts has been explicitly barred under Section 27 of the Senior Citizens Act, 2007. However, the overriding effect for remedies sought by the applicants under the Senior Citizens Act, 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act, 2005. The PWDV Act, 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a tribunal under the



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Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act, 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act, 2005. Section 26 [“26. Relief in other suits and legal proceedings.—(1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.”] of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act, 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming



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under the PWDV Act, 2005 and the Senior Citizens Act, 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to override and nullify other protections in law, particularly that of a woman's right to a “shared household” under Section 17 of the PWDV Act, 2005. In the event that the “aggrieved woman” obtains a relief from a tribunal constituted under the Senior Citizens Act, 2007, she shall be duty-bound to inform the Magistrate under the PWDV Act, 2005, as per sub-section (3) of Section 26 of the PWDV Act, 2005. This course of action would ensure that the common intent of the Senior Citizens Act, 2007 and the PWDV Act, 2005, of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realised. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realisation.

39. Adverting to the factual situation at hand, on construing the provisions of sub-section (2) of Section 23 of the Senior Citizens Act, 2007, it is evident that it applies to a situation where a senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred. On the other hand, the appellant's simple plea is that the suit premises constitute her “shared household” within the meaning of Section 2(s) of the PWDV Act, 2005. We have also seen the series of transactions which took



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place in respect of the property : the spouse of the appellant purchased it in his own name a few months before the marriage but subsequently sold it, after a few years, under a registered sale deed at the same price to his father (the father-in-law of the appellant), who in turn gifted it to his spouse i.e. the mother-in-law of the appellant after divorce proceedings were instituted by the fourth respondent. Parallel to this, the appellant had instituted proceedings of dowry harassment against her mother-in-law and her estranged spouse; and her spouse had instituted divorce proceedings. The appellant had also filed proceedings for maintenance against the fourth respondent and the divorce proceedings are pending. It is subsequent to these events, that the second and third respondents instituted an application under the Senior Citizens Act, 2007. The fact that specific proceedings under the PWDV Act, 2005 had not been instituted when the application under the Senior Citizens Act, 2007 was filed, should not lead to a situation where the enforcement of an order of eviction deprives her from pursuing her claim of entitlement under the law. The inability of a woman to access judicial remedies may, as this case exemplifies, be a consequence of destitution, ignorance or lack of resources. Even otherwise, we are clearly of the view that recourse to the summary procedure contemplated by the Senior Citizens Act, 2007 was not available for the purpose of facilitating strategies that are designed to defeat



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the claim of the appellant in respect of a shared household.

A shared household would have to be interpreted to include the residence where the appellant had been jointly residing with her husband. Merely because the ownership of the property has been subsequently transferred to her in-laws (second and third respondents) or that her estranged spouse (fourth respondent) is now residing separately, is no ground to deprive the appellant of the protection that was envisaged under the PWDV Act, 2005.

F. Summation

40. For the above reasons, we have come to the conclusion that the claim of the appellant that the premises constitute a shared household within the meaning of the PWDV Act, 2005 would have to be determined by the appropriate forum. The claim cannot simply be obviated by evicting the appellant in exercise of the summary powers entrusted by the Senior Citizens Act, 2007. The second and third respondents are at liberty to make a subsequent application under Section 10 of the Senior Citizens Act, 2007 for alteration of the maintenance allowance, before the appropriate forum.

41. For the above reasons, while allowing the appeal, we issue the following directions:

41.1. The impugned judgment and order of the



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Division Bench of the High Court of Karnataka dated 17-9-2019 [S. Vanitha v. Commr., 2019 SCC OnLine Kar 3171] affirming the order of eviction against the appellant shall stand set aside with the consequence that the order of the Assistant Commissioner ordering and directing the appellant to vacate the suit premises shall stand set aside.

41.2. We leave it open to the appellant to pursue her remedies under the PWDV Act, 2005. For that purpose, it would be open to the appellant to seek the help of the District Legal Services Authorities and if the appellant does so, all necessary aid and assistance shall be furnished to her in pursuing her legal remedies and rights.

41.3. IA No. 111352 of 2020 for restoration of the electricity connection is allowed by directing the fourth respondent to take all necessary steps for restoration of the electricity connection to the premises within a period of two weeks from the receipt of a certified copy of this judgment. The fourth respondent shall also continue to pay the electricity dues in future.

41.4. In order to enable the appellant to pursue her remedies under the PWDV Act, 2005, there shall be an order and direction restraining the respondents from forcibly dispossessing the appellant, disposing of the premises or from creating any right, title and interest in favour of any



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third party in any manner whatsoever for a period of one year, to enable the appellant to pursue her remedies in accordance with law. The appellant is at liberty to move the Court to espouse her remedies under the PWDV Act, 2005 for appropriate orders, including interim protections.

41.5. The directions contained in sub-paras 41.3 and 41.4, above emanate in exercise of the powers of this Court under Article 142 of the Constitution.”

10. The human conduct in the context of the Senior Citizen is to be understood considering the relationship between the senior citizen and the beneficiary of the property, which is transferred. In the present case, even the transfer of property has been disputed by the senior citizen since it was an unregistered partition cum release deed executed. Such deed cannot be trusted upon since the executor has questioned the same. Admittedly, the Civil Suit instituted between the parties are pending. However, mere pendency of the Civil Suit is not a bar for granting relief under the Senior Citizen Act.

11. In the present case, the relief granted by the competent authority under the Senior Citizen Act is inadequate in view of the fact that the



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relief sought for by the senior citizen is to cancel the fraudulent and unregistered partition cum release deed and direct the Revenue Tahsildar to cancel the patta transfer, effected based on such unregistered partition cum release deed, enabling the senior citizen to possess the property and reside there during her life time.

12. The petitioner herself, admitted the share of her son and daughter, that being so, the petitioner cannot be deprived of her share and to possess the property to that extent. However, regarding partition, the parties can work out their remedy in the manner known to law. As far as the relief to be granted under the Senior Citizen Act is concerned, the senior citizen and her life and residence are to be protected with reference to the object and purpose sought to be achieved under the Senior Citizen Act.

13 In view of the facts and circumstances, the order impugned passed by the 2nd respondent in proceeding No. Pa. Mu. No. 276 / 2023 / C dated 02.05.2023, is set aside and the 3rd respondent is directed to cancel the patta granted in favour of 4th respondent based on the unregistered partition cum release deed dated 23.01.2006. In respect of the



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unregistered partition cum release deed, the senior citizen is at liberty to initiate all appropriate action, if any fraud or coercion has been committed.

14. The respondents 1 and 2 are directed to restore the possession of the property and hand it over to the petitioner enabling her to reside there till her life time. Regarding the maintenance of the senior citizen, both the son and the daughter are directed to pay Rs.5,000/- each, totalling to a sum of Rs.10,000/- per month, to the senior citizen petitioner enabling her to meet out her medical and other expenditures during her life time. The District Collector is directed to ensure that this order has been implemented to protect the life of the senior citizen as contemplated under the provisions of the Act.

15. It is brought to the notice of this Court by learned Government Pleader that the Revenue Divisional Officer, Tiruchengode, has passed an order in proceeding dated 01.04.2024. During the pendency of the writ petition, the Revenue Divisional Officer rejected the appeal filed by the petitioner. In view of the directions issued in the present writ petition to cancel the name transfer in the patta, the said proceedings passed by the



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Revenue Divisional Officer, Tiruchengode in proceeding dated
01.04.2024 is also quashed.

16. Accordingly, the writ petition stands allowed. No costs.

Consequently, connected miscellaneous petition is closed.

03.04.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)



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1. The District Collector,
Office of District Collectorate,
Tiruchengode Road,
Namakkal-637 003.
2. The Revenue Divisional Officer cum Sub Divisional Magistrate,
(The Maintenance and Welfare of Parents
and Senior Citizens Act-Tribunal),
Thiruchengode, Namakkal District.
3. The Revenue Thasildhar,
Paramathy Velur Taluk,
Namakkal District.



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S.M.SUBRAMANIAM. J.,

(sha)

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03.04.2024