

**215**  
**10.06.2025**  
Ct. No.22  
b.das

**IN THE HIGH COURT AT CALCUTTA**  
**Civil Revisional Jurisdiction**

**C.O. 1165 of 2023**  
**(Assigned)**  
**Prem Chand Hari.**  
**Vs.**  
**Krishnapada Hari & Anr.**

Mr. Bhaskar Chakraborty  
Mr. Subrata Mukherjee ...for the petitioner.  
  
Mr. Amitabha Ghosh ...for the opposite party No.1.

1. This revisional application has been filed assailing the order dated 17<sup>th</sup> August, 2022 passed by the learned Chairman, Tribunal for Maintenance and Welfare of Parents and Senior Citizens Act, 2007/Sub-Divisional Officer, Barasat (Sadar), North 24 Parganas.
2. The proceeding in connection with the case no.84/2021 was initiated on an application filed by one Krishnapada Hari/opposite party no.1 herein alleging inter alia that the petitioner on a false pretext of seeking a business loan from bank managed to get the deed of gift executed in favour of the petitioner no.1 as well as proforma opposite party No.2 in the year 2007 being No.46 dated 12.01.2007 in respect of 5 cottah 4 chittak 31 square feet of land pertaining to LR Plot no.1222 (RS 1318) of Mouza - Napara, J.L. No.83, PS- Barasat along with tin shed structure thereby playing fraud upon the opposite party no.1.

3. It was further case of the opposite party No.1 that on account of tremendous hardship and increasing physical ailments with meagre income the instant application was filed with a prayer for cancelling the deed invoked under the provision of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Further case of the opposite party No.1 is that that the petitioner did not pay any farthing to the opposite party No.1 as well as his wife towards maintenance.
4. On receiving an application, a case was registered by the Chairman of the Tribunal for Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and after hearing both the sides he declared the deed of gift being no.46/2007 dated 12.01.2007 to be void and the land so transferred in favour of the petitioner was to be restored to the opposite party No.1 with immediate effect.
5. Learned counsel appearing on behalf of the petitioner has relied on the notification published in the official gazette whereby the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came into force with effect from 5<sup>th</sup> December, 2008 in the State of West Bengal. But the deed of gift alleged in this case was admittedly executed on 12.01.2007, that is, prior to the date when the Act came into force.
6. It is further submitted that this deed cannot be declared void or cancelled by the provision of Section 23 of the Act of 2007 which came into force on 5<sup>th</sup> December, 2008.

7. Learned counsel, Mr. Bhaskar Chakraborty, appearing on behalf of the petitioner also highlighted the contents of the deed of gift alleged in this case and submits that no condition was attached with regard to the duty envisaged under Section 23 of the Act of 2007.
8. Learned counsel, Mr. Amitabha Ghosh appearing on behalf of the opposite party No.1, in his usual fairness, has submitted that the Act of 2007 came into force on 5<sup>th</sup> December, 2008 and the deed of gift was executed admittedly prior to the date when the Act of 2007 came into force. Therefore, the deed of gift cannot be declared void.
9. On careful perusal of the deed it comes to my view that there is no such condition attached with regard to the duty upon the petitioner to provide maintenance or other needs. Perused the invoked provision of Section 23(1) of the Act. That apart, admittedly, the provision of the said Section has no application in this case where deed of gift was executed by the opposite party No.1 in favour of petitioner as well as proforma opposite party No.2.
10. In the aforesaid view of the matter, the order with regard to cancellation of the deed is liable to be set aside only.
11. Accordingly, the order dated 17<sup>th</sup> August, 2022 with regard to the cancellation of the deed of gift being No.46 of 2007 dated 12.01.2007 stands set aside.

12. Learned counsel for the opposite party No.1 has also prayed for enhancement of the maintenance passed by the Tribunal.
13. It is vehemently submitted that Rs.1,000/- cannot be considered as maintenance for old parents who are suffering from various ailments.
14. In opposition to that learned counsel appearing on behalf of the petitioner has submitted with regard to the responsibility of the petitioner towards maintenance of his family.
15. In the background of this Case, the order of maintenance amounting to paltry sum of Rs.1,000/-, in my most considered view, is nothing sort of a grievous affront to the petitioner, the old father aged about 87 years, who seeks bare sustenance to secure his very livelihood, dignity and survival.
16. Considering all facts and circumstances, I direct the petitioner Prem Chand Hari as well as proforma opposite party No.2 Uttam Hari to pay Rs.5,000/- each to their father/opposite party No.1 herein towards maintenance under Act of 2007 and they are also directed to ensure payment of maintenance within 5<sup>th</sup> day of each succeeding month with effect from the date of application submitted before the Tribunal.
17. The petitioner and the proforma opposite party No.2 are at liberty to file application before the learned Tribunal for payment of arrear maintenance by instalment.

18. With the above observations, the revisional application is disposed of.

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

20. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Bibhas Ranjan De, J.)**