

**In the High Court At Calcutta
CIVIL REVISIONAL JURISDICTION
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

**CO/26/2024
SIB CHARAN ROY
VS
NILAKSHA ROY AND ANR
WITH
CO/110/2023
NILAKSHA ROY
VS
SIB CHARAN ROY AND ANR**

*For the Petitioner in
CO/26/2024*

*And OP in CO/110/2023 :Mr. Arnab Sengupta, Advocate
Mr. Deborshi Dhar, Advocate
Ms. Prerna Khaitan, Advocate*

*For the Petitioner
CO/110/2023*

*And OP in CO/26/2024 :Mr. Bikramaditya Ghosh, Advocate
Mr. Supriya Singh, Advocate
Mr. Ved Rai, Advocate
Mr. Mayank Bhandari, Advocate
Mr. Vivek Saha, Advocate*

Heard & Judgment on: November 27, 2025

Debangsu Basak, J.

1. Two revisional applications are taken up for analogous hearing as they involve the same parties.

2. A senior citizen, filed CO 26 of 2024 assailing an order dated September 12, 2023 passed in Appeal Petition No. 04 of 2023 of the Appellate Authority under the provisions of the West Bengal Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The son of the senior citizen filed CO 110 of 2023 directed against the order dated August 14, 2023 passed by the Tribunal purporting to exercise jurisdiction under the Act of 2007.
3. The senior citizen left his son and his wife since deceased to live separately. The senior citizen was living separately for over 23 years at a different place. Wife of the senior citizen and the son were living together at the immovable property which is the subject matter of the proceeding under the Act of 2007. The concerned immovable property belonged to the grandfather of the senior citizen. House thereon was constructed by the senior citizen and his wife, now deceased, jointly. Senior citizen granted lease of the immovable property to his son. Senior citizen is retired and is enjoying pensionary benefits. Senior citizen possesses a residence of his own.
4. Son is presently working. He is not residing on the subject property. He visits the subject property apparently when his employment permits him to do so.
5. Disputes and differences arose between the senior citizen and his son as to the manner and method of disposal of the immovable property concerned.
6. It transpires that, the senior citizen is inclined to sell the immovable property. Son does not want it to be sold and if senior citizen is willing to sell the house to the son he is willing to purchase the said

house at price to be fixed by them mutually. Senior citizen refused to do so.

7. Senior citizen thereafter approached the maintenance Tribunal under the Act of 2007.
8. The first issue is whether the maintenance Tribunal can assume jurisdiction such a scenario.
9. Authorities are cited on behalf of the senior citizen to the effect that a maintenance Tribunal can direct eviction.
10. Authorities cited on behalf of the senior citizen namely, **Shweta Shetty & Ors. vs. State of Maharashtra & Ors. [2021 SCC Online Bom 4575]**, **Smt. Mamata Sarki & Anr. vs. The State of West Bengal & Ors. [AIR 2020 Calcutta 166]** and **Naresh Kumar And Anr. vs. The Appellate Tribunal Maintenance and Welfare of Parents and Senior Citizens Act, 2007 & Ors. [2024(1) PLR 164]** held that, a maintenance Tribunal possesses jurisdiction to direct eviction.
11. Factual matrix in all those three authorities are completely different from that obtaining in the present case. In all the three authorities, the senior citizen required the immovable property concerned for his residence. The children of senior citizens involved therein were obstructing the peaceful user and enjoyment of such immovable property by the senior citizens.
12. In the facts of the present case, the senior citizen does not require the immovable property concerned for his residence. Senior citizen is seeking to sell it to some other person.
13. Every dispute between the senior citizen and a son cannot come within the scope and ambit of a Tribunal established under the Act of 2007.

14. The Act of 2007 defines a "maintenance" under Section 2(b) and "welfare" in Section 2(k) which are as follows-

2(b)- "maintenance" includes provisions for food, clothing, residence and medical attendance and treatment;

2(k)-"welfare" means provisions for food, health care, recreation centres and other amenities necessary for the senior citizens."

15. Section 5 of the Act of 2007 allows an application for maintenance under Section 4 to be made. Section 5 sub-section (2) and (3) allow Tribunal exercising jurisdiction under the Act of 2007 to grant an order of maintenance.
16. To successfully invoke the jurisdiction of the maintenance Tribunal, the jurisdictional fact of a senior citizen being in need of maintenance within the meaning of the Act of 2007 is required to be established. Once such jurisdictional fact is established then a maintenance Tribunal is clothed with the power to issue a direction which for the welfare of the senior citizen involved.
17. Therefore, not only establishment of the jurisdictional fact is imperative, but also, the order of Tribunal needs to be for the welfare of the senior citizen, for any order of Tribunal to withstand scrutiny for excess of jurisdiction.
18. In the facts of the instant case, the civil disputes between the senior citizen and the son concerned, relates to eviction of a lease from the immovable property. Senior citizen does not require the property concerned for his residence. Senior citizen does not want to reside at the immovable property. Senior citizen is not in any need for any maintenance from the son. The mechanism of the Act of 2007, in such factual scenario cannot be utilized for the purpose

of evicting the lessee who is also the son of the senior citizen from the immovable property concerned.

19. In my view, therefore, the assumption of jurisdiction by the Tribunal under the Act of 2007 is incorrect. The order passed by the Sub-divisional Magistrate on assumption of jurisdiction under the Act of 2007 being incorrect, is set aside.
20. In view of the my finding that, the Tribunal under the Act of 2007 does not possess requisite jurisdiction under the Act of 2007, with regard to disputes between the parties before me, the issue as to whether or not, an appeal can be preferred by a senior citizen under the Act of 2007 need not be answered.
21. CO/26/2024 and CO/110/2023 are **disposed of** by quashing the proceedings under the Act of 2007.

(Debangsu Basak, J.)