

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12165 OF 2025

1. Hemant Mahipal Kotia
2. Sunita Hemant Kotia ...Petitioners

Versus

1. Mahipal Balmukund Kotia (deceased)
2. Shanta Mahipal Kotia
3. Learned Court of Presiding Officer under
Maintenance and Welfare of Parents
4. Additional Collector and Appellate
Authority
5. State of Maharashtra

...Respondents

WITH

INTERIM APPLICATION NO. 11929 OF 2025

Mr. Dhananjay Singh, a/w Shailesh Rai, for the Petitioners.
Mr. Kapil Shetye, for Respondent No.2.
Mr. J. P. Patil, AGP for the State.

CORAM: N. J. JAMADAR, J.

DATED: 22nd SEPTEMBER, 2025

Order:-

INTERIM APPLICATION NO. 11929 OF 2025

1. Heard the learned Counsel for the applicants.
2. This application is taken out to amend the petition so as to delete the name of Mahipal Balmukund Kotia (R1) from the array of respondents as Mahipal Kotia (R1) has passed away. The application is supported by a copy of the death certificate of Mahipal Kotia (R1).

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3. For the reasons assigned in the application and to advance the cause of substantive justice, the application stands allowed.

4. The petitioners are permitted to carry out the necessary amendment in the petition forthwith.

5. The application stands disposed.

WRIT PETITION NO.12165 OF 2025

6. The challenge in this petition is to an order dated 3rd October, 2024 passed by the Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, thereby affirming the order passed by the Maintenance Tribunal, dated 3rd April, 2024 cancelling the Gift Deed executed by the respondents herein on 10th November, 2020 in favour of petitioner No.1.

7. The learned Counsels for the parties submit that, the parties have amicably resolved the dispute and Consent Terms have been executed. The learned Counsel for the parties seek leave to tender the Consent Terms.

Leave granted.

8. During the pendency of the petition, Mahipal Kotia (R1), the father of Hemant Kotia (P1) has passed away. After the demise of Mahipal Kotia (R1), the Court is informed, Shanta

Kotia (R2), mother of petitioner No.1, is residing with the petitioners.

9. Hemant Kotia (P1), Sunita Kotia (P2) and Shanta Kotia (R2) are present before the Court. They admit the contents of the Consent Terms and execution thereof. The parties have, *inter alia*, agreed that, the impugned order be quashed and set aside and the petitioners will pay a sum of Rs.30,000/- per month, by crediting the same in the account of Shanta (R2) and also take care of her basic needs and amenities of life. The parties are identified by their respective Advocates.

10. It appears that, after the demise of Mahipal Kotia (R1), the parties have resolved their differences and Shanta Kotia (R2) has been residing with the petitioners. The Consent Terms appear to have been executed voluntarily. There does not appear to be any coercion or duress. The Consent Terms are, therefore, taken on record and marked 'X'.

11. The petition stands disposed in accordance with the Consent Terms 'X'.

12. The undertakings given in the Consent Terms 'X' are accepted as the undertakings to the Court.

13. In addition to the terms arrived at between the parties, having regard to the situation in life of Shanta Kotia (R2), the

Court inquired with the petitioners as to whether the petitioners are willing to make deposit of the amount to be paid to Shanta Kotia (R2) every month upfront, for a certain period, to lend assurance that the Consent Terms would be complied with, Hemnat Kotia (P1) submitted that, he would deposit a sum of Rs.5,00,000/- in the account of Shanta Kotia (R2) within a period of one week from today.

14. The aforesaid statement made by Hemant Kotia (P1) is accepted as an undertaking to the Court. Hemant Kotia (P1) shall make such deposit of Rs.5,00,000/- in the account of Shanta Kotia (R2) towards the maintenance agreed to be paid to Shanta Kotia (R2) and submit the receipt/document evidencing the said payment in this Court within a period of two weeks.

15. The matter be listed after two weeks for reporting compliance.

[N. J. JAMADAR, J.]