GAHC010140662025

2026:GAU-AS:15405

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4190/2025

MRIDUL MAZUMDAR
S/O- LATE SURENDRA NATH MAZUMDAR,
PERMANENT R/O- H.NO- 31, ANIL NAGAR, RAJGARH LINK ROAD,
GUWAHATI-07, P.O- ULUBARI,
P.S- CHANDMARI, KAMRUP METRO, ASSAM.

PRESENT ADDRESS-
H.NO-C-04, KAVERI, TYPE IV, IGNOU RESIDENTIAL COMPLEX MAIDAN GARHI, NEW DELHI-68

VERSUS

THE STATE OF ASSAM AND OTHRS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-781006, ASSAM

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-07
ASSAM

3:THE DISTRICT COMMISSIONER
CUM DISTRICT MAGISTRATE
KAMRUP (M)
HENGRABARI
GUWAHATI-781036

4:THE COMMISSIONER OF POLICE
KAMRUP (M)
GUWAHATI

ASSAM

5:THE DEPUTY COMMISSIONER OF POLICE
CENTRAL ULUBARI
GUWAHATI-07

6:THE CIRCLE OFFICER

GUWAHATI REVENUE CIRCLE
ULUBARI CIRCLE OFFICE
GUWAHATI-07

7:THE OFFICER IN CHARGE
CHANDMARI P.S
KAMRUP (M)
ASSAM

8:MANIK MAZUMDAR
S/O LATE SURENDRA NATH MAZUMDAR

R/O- 2ND FLOOR
KRISHNA RESIDENCY
BYE LANE NO-9
SOUTH SARANIA
GUWAHATI
KAMRUP (M)
ASSAM

9:MRS. SHYAMOLI MAZUMDAR
W/O - MANIK MAZUMDAR

R/O- 2ND FLOOR
KRISHNA RESIDENCY
BYE LANE NO-9
SOUTH SARANIA
GUWAHATI
KAMRUP (M)
ASSAM

10:MUKUT MAZUMDAR
S/O LATE SURENDRA NATH MAZUMDAR

C/O KALPANA BARMAN(ADO)
AGRICULTURE COLONY (NEAR KRISHI BHAVAN)
KHANAPARA
GUWAHATI-781022
DIST-KAMRUP METRO
ASSAM

CONTACT NO.7099574225

11:MRS. KALPANA BARMAN
W/O- MUKUT MAZUMDAR

C/O- KALPANA BARMAN (ADO)
AGRICULTURE COLONY (NEAR KRISHI BHAWAN)
KHANAPARA
GUWAHATI-22
KAMRUP (M)
ASSA

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. S.K. Roy, Advocate

For the Respondent(s) : Mr. J. Handique, Govt. Advocate
Mr. N. Barman, Advocate

- Date on which Judgment was reserved : NA
- Date of Pronouncement of Judgment : **12.10.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : NA
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. S.K. Roy, the learned counsel for the Petitioner. Mr. J. Handique, the learned Government Advocate, appears on behalf of the Respondent Nos. 1 to 7 and Mr. N. Barman, the learned counsel appears on behalf of the Respondent Nos. 8 to 11.

2. The Petitioner herein is aggrieved by the inaction on the part of the official Respondents in taking steps in terms with the FIR dated 22.01.2025 lodged before Chandmari Police Station as well as the complaint dated 18.02.2025 made to the Director General of Police, Assam. The Petitioner had also submitted a representation dated 03.03.2025 to the District Commissioner, Kamrup (M) by email, which according to the Petitioner has not been considered. The Petitioner also seeks a writ in the nature of mandamus directing the Respondent Authorities to rescue his mother from captivity, mental torture and harassment and to ensure that her freedom and access to essential facilities are not restricted.

3. The dispute in the present case is primarily between the Petitioner and the private Respondents inasmuch as the Petitioner alleges that the private Respondents have violated the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "the Act of 2007"), by abandoning their mother and keeping her under lock and key after receiving on gift the lands and the buildings standing thereon.

4. On the other hand, these allegations are refuted by the private Respondents in their respective affidavits filed before this Court. The private Respondents have categorically stated that the

mother of the Petitioner and the private Respondents, namely, Smt. Ashalata Mazumdar, is suffering from age-related ailments and dementia. Under such circumstances, the gates had to be kept closed otherwise, there was a likelihood that Smt. Ashalata Mazumdar being unaware of her whereabouts might wander around.

5. It also appears from the averments made in the writ petition, more particularly, the submissions made by the learned counsel for the Petitioner that the properties belonging to Smt. Ashalata Mazumdar were gifted to the private Respondents thereby affecting the Petitioner's rights over the lands in question.

6. In the backdrop of the above, if this Court takes note of the Act of 2007, it would be evident that the Act was enacted to safeguard older persons, particularly widowed women against neglect and lack of physical and financial support. Provisions for the maintenance of parents and senior citizens have been made under the Act of 2007.

7. Chapter V of the Act of 2007 specifically deals with the protection of the life and property of senior citizens. Section 22 of the Act of 2007 is relevant inasmuch as it casts an obligation upon

the District Magistrate to ensure that the provisions of the Act of 2007 are properly implemented. In this regard, the District Magistrate may specify an officer subordinate to him to exercise all or any of the powers and perform all or any of the duties conferred or imposed under the Act, within such local limits as may be prescribed.

8. Section 23 of the Act of 2007 is also relevant inasmuch as it deals with the circumstances in which the transfer of property may be declared void. The said Section is reproduced hereinbelow:

> "***23. Transfer of property to be void in certain circumstances***
>
> *1. Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.*
>
> *2. Where any senior citizen has a right to receive maintenance out of an estate and such estate or part, thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.*

3. If any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organization referred to in Explanation to sub-section (1) of section 5."

9. The learned counsel appearing on behalf of the Petitioner referring to the above quoted Section submitted that the gift deeds executed in favour of the private Respondents are statutorily recognized as fraud and undue influence as contemplated under Section 23(1) of the Act of 2007 inasmuch as the transfers were made in the years 2023 and 2024 when his mother was suffering from dementia, as admitted by the Respondents in their affidavits. This aspect is further evident from the affidavit filed by the Respondent No. 5.

10. This Court, however, finds it very pertinent to take note of that Section 23 of the Act of 2007 provides a remedy that may be enforced by a senior citizen by approaching the Tribunal. Where the senior citizen is unable to enforce the rights available under Section 23, an organization referred to in the Explanation to Sub-Section (1) of Section 5 of the Act of 2007 may act on behalf of the senior citizen.

11. In the instant case, it appears that the Petitioner is primarily concerned with the effect of the gifts made by his mother in favour

of the private Respondents on his rights over his mother's lands and buildings.

12. The learned counsel for the Petitioner also submitted that certain portions of the building belong to him.

13. It is, therefore, the opinion of this Court that the Petitioner cannot claim the benefit of Section 23 of the Act of 2007 for himself. Apart from the mother of the Petitioner, an eligible voluntary organization registered under the Societies Registration Act, 1860, as referred to in the Explanation to Section 5(1) of the Act of 2007 may raise the issue of enforcing the rights under Section 23 on behalf of the senior citizen.

14. The learned counsel appearing on behalf of the Petitioner submitted that the Petitioner is barred from challenging the gift deeds under Section 27 of the Act of 2007.

15. In the opinion of this Court, the bar under Section 27 of the Act of 2007 would come into play only when the senior citizen or an organization referred to in the Explanation to Sub-Section (1) of Section 5 of the Act of 2007 applies. The said bar would not prevent the Petitioner from approaching the Civil Court if his rights are affected.

16. This Court has also given an anxious consideration to the respective pleadings and is of the opinion that if Smt. Ashalata Mazumdar is subjected to any distress by the private Respondents, it is the duty of the authorities under the Act of 2007 to act accordingly.

17. This opinion is based on the affidavits filed by the private Respondents and the Respondent No. 5 wherein it is stated that Smt. Ashalata Mazumdar is suffering from various ailments including dementia.

18. It is also the opinion of this Court that having regard to the scope and ambit of the Act of 2007, stringent action should be taken if it is found that Smt. Ashalata Mazumdar has been abandoned or subjected to distress at the hands of the private Respondents.

19. Considering the above, this Court disposes of the instant writ petition with the following observations and directions:

(i) The Respondent No. 3 either by himself or through an officer subordinate to him is directed to conduct an inquiry into the allegations made by the Petitioner in his representation dated 03.03.2025. For this purpose, the

Petitioner shall resubmit a copy of the representation dated 03.03.2025 to the Respondent No. 3 along with further details, if so advised and a certified copy of this judgment.

(ii) The Respondent No. 3 or an officer authorized by him upon receipt of the said representation and the certified copy of this judgment shall conduct an inquiry and take appropriate steps in accordance with the Act of 2007 if it is found that Smt. Ashalata Mazumdar has been abandoned or subjected to distress on account of the private Respondents.

(iii) The Respondent No. 3 is also directed to take note of that certain properties belonging to Smt. Ashalata Mazumdar were transferred by way of gift deeds dated 16.10.2023 and 09.08.2024. An inquiry shall be conducted in this regard and if it is found that the transfers fall within the ambit of Section 23(1) of the Act of 2007, appropriate action be taken in accordance with the Act of 2007.

(iv) This Court grants liberty to the Petitioner to approach the Civil Court if he is aggrieved by the gift deeds on the ground that they affect his rights over the lands and the buildings standing thereon, inasmuch as the bar contained in Section

27 of the Act of 2007 shall not apply against the Petitioner.

(v) No costs.

JUDGE

Digitally signed by Satyam Sharma
Date: 2026.10.14 23:03:44 +05'30'

Comparing Assistant