

18.02.2026
Ct. No. 30
S.L. No. 43
SM

CO 21 of 2023
Sandip Sengupta
Versus
Pushpalata Sengupta

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
Mr. Samrat Chakraborty
Mr. Saikat Gayen

.....for the petitioner

1. The revisional application has been preferred challenging an order being no. 3 dated 25.11.2022 passed by the learned District Magistrate, Nadia at Krishnanagar in Appeal No. 06 of 2022 affirming the order being No. 5 dated 17.03.2022 passed by the learned Sub-Divisional Officer, Sadar, Nadia at Krishnanagar in Senior Citizen Case No. SC 12/21.

2. It is the petitioner's case that the opposite party No. 1 herein was the owner in respect of a plot of land lying and situated within District Nadia, P.S. Kotwali, Mouza Krishnanagar, J.L. No. 92, R.S. Dag No. 9569 corresponding to L.R. Dag No. 13350/13520, together with a structure standing thereon. The petitioner states that the opposite party No. 1 herein executed a Deed of Gift dated 31.08.2016 vide Deed No. 130207474 for the year 2016 in favour of the petitioner and transferred the right, title and interest in favour of the petitioner.

3. It is the further case of the petitioner that all of a sudden the petitioner received a notice issued by the the Learned Tribunal whereby it appears that the

opposite party filed an application under Section 4 read with Section 23 of the Maintenance And Welfare of Parents and Senior Citizens Act, 2007 which was registered as SC 12/21.

4. It appears that a case has been made out by the opposite party herein in the said application, that her son the petitioner has been torturing her regularly since couple of years. The opposite party also stated that the petitioner forced her to execute a gift deed being No. 7474/2016 in favour of the petitioner pertaining to 6.5 decimals of land in Mouza Krishnanagar, J.L. No. 92, L.R. Plot no. 13350/13520 and inter alia prayed for getting back the gifted land and also prayed for cancellation of that Gift Deed so that she may live peacefully in her residence with her unmarried daughter.

5. It is the case of the petitioner that he has been looking after the opposite party and unmarried sister. The opposite party filed the said case at the instance of her elder daughter as the opposite party is now living in the residence of her elder daughter.

6. In the said proceedings the learned tribunal by order dated 17.03.2022 was pleased to allow the said application filed by the opposite party by declaring the Gift Deed Being No. 1-1302-07474/2016 registered on 31.08.2016 in the office of of Sub-Additional District Registrar, Krishnanagar, Nadia executed by the opposite party in favour the

petitioner stood void at the option of the opposite party and direct the Inspector in Charge, Kotwali Police Station, Nadia to look into the matter, so that the petitioner does not disturb the opposite party in respect of the property in question and to ensure the protection of the life and property of the opposite party.

7. The petitioner preferred an appeal before the District Magistrate, Nadia at Krishnanagar which was registered as Appeal No. 06 of 2022 and the learned District Magistrate by order impugned was pleased to dismiss the appeal of the petitioner and affirmed the order passed by the learned Tribunal.

8. It is the case of the petitioner (donee) herein that the said deed of gift has not been executed as per the mandatory requirements of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and as such the impugned proceeding is liable to be quashed being not maintainable.

9. **Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 lays down:—**

“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 organisation referred to in Explanation to sub-section (1) of section 5.

This clause provides that if a senior citizen after the commencement of the provision of this Act, transfers his property by way of gift or otherwise with the condition that the transferee shall provide basic amenities and basic physical needs and such transferee fails or refuses 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 the transfer be declared void by the Tribunal at the option of the senior citizen. *It also provides that where any senior citizen has a right to receive maintenance out of an estate or part thereof and such estate or part thereof is transferred, the right may be enforced against the transferee. It further provides that if any senior citizen is incapable of enforcing the rights, action may be taken on his behalf by any of the voluntary association registered under the Societies Registration Act, 1860 or any other law for the time being in force. (Notes on Clauses)."*

10. In *Urmila Dixit v. Sunil Sharan Dixit* reported in Civil Appeal No. 10927 of 2024 [Arising out of Special Leave Petition (Civil) No. 720 of 2023], the Supreme Court held that:—

*“23. The Appellant has submitted before us that such an undertaking stands grossly unfulfilled, and in her petition under Section 23, it has been averred that there is a breakdown of peaceful relations inter se the parties. In such a situation, the two conditions mentioned in Sudesh (supra) must be appropriately interpreted to further the beneficial nature of the legislation and not strictly which would render otiose the intent of the legislature. **Therefore, the Single Judge of the High Court and the tribunals below had rightly held the Gift Deed to be cancelled since the conditions for the well-being of the senior citizens were not complied with.** We are unable to agree with the view taken by the Division Bench, because it takes a strict view of a beneficial legislation.”.*

11. In *Kamalakant Mishra v. Additional Collector reported in Civil Appeal No....2025* [@SLP(CIVIL) No. ...D. No. 42786 of 2025], the Supreme Court held that:—

***“7. The framework of the Act clearly notes that the law was enacted to address the plight of older persons, for their care and protection. Being a welfare legislation, its provisions must be construed liberally so as to advance its beneficent purpose.** This Court on several occasions has observed that the Tribunal is well within its powers to order eviction of a child or a relative from the property of a senior citizen, **when there is a breach of the obligation to maintain the senior citizen.**² In the present case, despite being financially stable, the respondent has acted in breach of his statutory obligations in not allowing the appellant to reside in the properties owned by him, thereby frustrating the very object of the Act. High Court fell in error in allowing the writ petition on a completely untenable ground.”.*

12. Thus, it appears from the said judgments that the Supreme Court has categorically held that

eviction order could be passed under the said Act, when **there is a breach of the obligation to maintain the senior citizen.**

13. In **Sudesh Chhikara v. Ramti Devi, (2024) 14 SCC 225**, the Court held as follows:—

“14. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression “by way of gift or otherwise”. For attracting sub-section (1) of Section 23, the following two conditions must-be-fulfilled:

(a) The transfer must have been made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor; and

(b) The transferee refuses or fails to provide such amenities and physical needs to the transferor.

If both the aforesaid conditions are satisfied, by a legal fiction, the transfer shall be deemed to have been made by fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of the transferor and the Maintenance Tribunal gets jurisdiction to declare the transfer as void.

14. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and

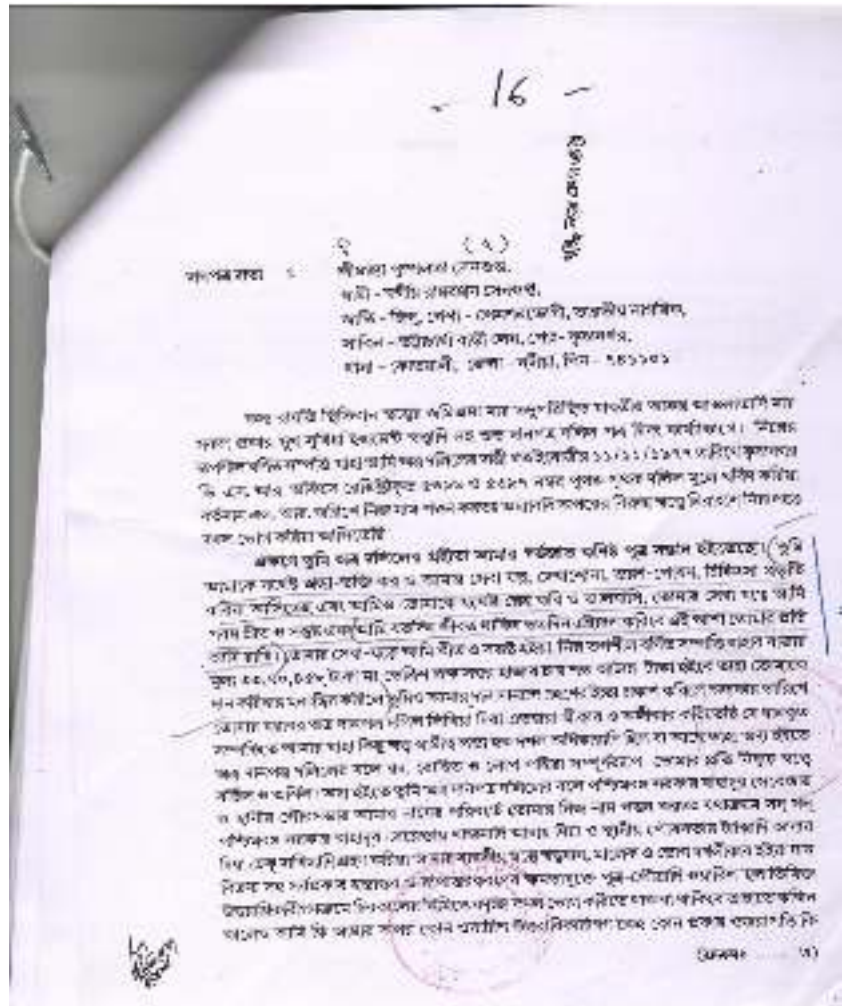
affection without any expectation in return. **Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal.**

15. A copy of the deed of gift has been annexed to the revisional application.

16. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor - senior citizen is sine qua non, for applicability of sub-section (1) of Section 23 of the Act.

17. In the present case on careful perusal of the deed of gift it appears that the same has been executed as per Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

18. There are specific terms and conditions in the deed stating that the transfer was effected subject to the condition of providing the basic amenities and basic physical needs to the transfer. The relevant extract of the deed is scanned herein:-



19. The application dated 27.09.2021 to the appropriate authority also contains the ingredients as required under the welfare act.

20. The order being no. 3 dated 25.11.2022 passed by the learned District Magistrate, Nadia at Krishnanagar in Appeal No. 06 of 2022 affirming the order being No. 5 dated 17.03.2022 passed by the learned Sub-Divisional Officer, Sadar, Nadia at Krishnanagar in Senior Citizen Case No. SC 12/21, being in accordance with law, requires no interference.

21. The civil revision being CO 21 of 2023 is dismissed and thus disposed of.

22. Applications, if any, connected thereto stand disposed of consequently.

23. Interim order, if any, stands vacated.

24. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]