

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14689 OF 2025

Ramrao s/o Dattarao Kadam,
Age: 45 years, Occ.: Business,
R/o: Kadam Traders, New Mondha,
Parbhani, Tq. & Dist. Parbhani.

..Petitioner

VERSUS

1. Dattarao s/o Bapurao Kadam,
Age: 80 years, Occu. : Business,
2. Anuradha w/o Dattarao Kadam,
Age: 75 years, Occu. : Household,
3. Anusaya w/o Dattarao Kadam,
Age: 70 years, Occu.: Household,

All are R/o Samarth Agency,
New Mondha, Parbhani, Tq. and Dist. Parbhani.

4. Vishnu s/o Dattarao Kadam,
Age: 50 years, Occu. : Business,
R/o Samarth Agency, New Mondha,
Parbhani, Tq. and Dist. Parbhani.
5. Pandharinath s/o Dattarao Kadam,
Age: 54 years, Occu.: Business,
R/o Radhika Agency, New Mondha,
Parbhani, Tq. and Dist. Parbhani.
6. The Sub Divisional Officer and
Senior Citizens Maintenance
Tribunal, Parbhani,
Tq. and Dist. Parbhani.
7. The Collector and Officer-in-charge
Senior Citizens Appellate Tribunal,
Parbhani, Tq. and Dist. Parbhani.

..Respondents

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Mr. V.D. Salunke, Advocate for Petitioner.
Mr. S.P. Joshi, AGP for Respondent/State.
Mr. S.S. Tope, Advocate for Respondent Nos.1 to 3.
Mr. A.S. Lokhande, Advocate for Respondent Nos.4 & 5.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MARCH 30, 2026

FINAL ORDER :-

1. The petitioner impugns order dated 14.11.2025 passed by Collector and Officer-in-charge Senior Citizens Appellate Tribunal, Parbhani thereby upholding order dated 12.09.2025 passed by Sub Divisional Officer and Senior Citizens Maintenance Tribunal, Parbhani.

2. Respondent Nos.1 to 3 moved application under Section 5(1) of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('Act of 2007' for short) before respondent no.6, claiming relief of maintenance and cancellation of registered gift deed dated 18.07.2019 executed in favour of petitioner. Respondent No.6 allowed application vide order dated 12.09.2025 and declared gift deed dated 18.07.2019 as invalid in terms of Section 23 (1) of Act of 2007 and directed petitioner to pay maintenance of Rs.2,000/- per month to each of respondent nos.1 to 3. The petitioner assailed aforesaid order by filing an appeal under Section 16 (1) of Act before Appellate Tribunal/respondent no.7, however, by impugned order dated 14.11.2025, appeal came to be rejected.

3. Mr. Salunke, learned advocate appearing for petitioner submits that relief granted by respondent no.6 is beyond scope of Section 23 of Act of 2007. He submits that registered gift deed

bearing no.5093 of 2019 dated 18.07.2019 is already subject matter of partition suit vide Special Civil Suit No.308 of 2023 pending before Civil Judge, Senior Division, Parbhani. Respondent No.1 raised challenge to aforesaid gift deed before respondent no.7 while issue is subjudice in suit. Once issue as to validity of sale deed is subjudiced before Competent Court of Civil Jurisdiction, respondent no.6 could not have ventured into validity of sale deed in exercise of summary powers under Act of 2007. He would further submit that although, application was filed by respondent nos.1 to 3 claiming maintenance against petitioner and respondent nos.4 and 5, impugned order is passed only against petitioner excluding other two sons from liability to pay maintenance which clearly shows that application was collusive and malafide prosecuted against petitioner alone.

4. Per contra, Mr. Tope, learned advocate appearing for respondent nos.1 to 3 supports impugned order. He would submit that petitioner has fraudulently obtained gift deed. He did not provide maintenance to parents, although he was under statutory obligation. The Tribunal as well as Appellate Authority recorded sufficient reasons in support of order. No jurisdictional error is committed by respondent nos.6 and 7. No interference is called for under Article 226 and 227 of Constitution of India. In support of his contention, he relies upon observations of this Court in case of Raviprakash R. Sodhani and Anr Vs. Ram Swaroop Sodhani and Ors

In Writ Petition No.11375 of 2025 decided on 03.10.2025 and observations in case of Dinesh Bhanudas Chandanshive Vs. The State of Maharashtra and Ors in Writ Petition No.7392 of 2021 decided on 30.01.2024.

5. Having considered submission advanced by learned advocates appearing for respective parties and on perusal of record, this Court finds that respondent nos.1 to 3 moved an application under Section 5 of Act of 2007 against petitioner and respondent nos.4 and 5 i.e. all three sons claiming maintenance order. It is their contention that all respondents have failed to maintain them, although, they have sufficient means. Further, there is allegation that petitioner fraudulently got executed gift deed from respondent no.1. It is not disputed that registered gift deed dated dated 18.07.2019 is subject matter of civil suit, particularly on the ground of fraud.

6. Perusal of impugned orders depicts that maintenance is ordered only against petitioner, although claim for maintenance is raised against all three respondents. The reasoning in order dated 12.09.2025 nowhere stipulates, as to why maintenance order is passed against only respondent no.1. It is expected that when claim is raised against all three sons by senior citizens, order of maintenance is passed against each of them, unless specific reasons are recorded for excluding a particular son or daughter from liability to pay maintenance.

7. Second aspect of the matter is regarding registered gift deed dated 18.07.2019 which has been declared as invalid under section 23(1) of Act of 2007. The challenge to aforesaid gift deed was on the basis of fraud exercised by petitioner. When issue as to fraud is subjudice before Competent Court of Civil Jurisdiction, whether Tribunal in exercise of summary powers has jurisdiction to record findings of fraud would be a question that requires deliberation. Though impugned order takes note of pending suit and grounds of challenge raised in suit, no reasons are recorded as to how Tribunal concluded that gift deed is obtained by fraud. Even, Appellate Tribunal also failed to record reasons on aforesaid aspects of matter and confirmed order passed by Tribunal in mechanical manner. In result, impugned orders cannot be sustained in law. The matter needs to be relegated back to the authority i.e. Tribunal for recording adequate findings on aforesaid aspects of matter.

8. In result, writ petition is partly allowed.

9. Impugned orders dated 14.11.2025 passed by Collector and Officer-in-charge Senior Citizens Appellate Tribunal, Parbhani as well as order dated 12.09.2025 passed by Sub Divisional Officer and Senior Citizens Maintenance Tribunal, Parbhani are quashed and set aside.

10. The parties shall appear before respondent no.6 on 16.04.2026.

11. The Tribunal shall pass fresh order after considering rival contentions on all aspects highlighted in this order.

12. Till conclusion of proceeding before Tribunal; (i) The petitioner shall continue to deposit maintenance amount @ Rs.2,000 each per month for respondent nos.1 to 3 and also clear arrears till this date; (ii) He shall maintain status quo as to property which is subject matter of gift deed.

(S.G. CHAPALGAONKAR, J.)