

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6891 OF 2026

Hriday R Agicha ..Petitioner
Versus
Nanda M Agicha and Anr ...Respondents

Mr. Ankit Lohia, with Mahesh Ahire, Drishti Singh and Priya Singh,
i/b MZM Legal LLP, for the Petitioner.
Mr. Vivek Kantawala, with Rajat Jain, i/b MM Legal Associates, for
Respondent No.1.
Ms. Savita Prabhune, AGP, for Respondent No.2-State.

CORAM: N. J. JAMADAR, J.
DATE : 9th JUNE 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 27th April 2026, passed by the Maintenance Tribunal, thereby canceling the Gift Deed executed by the Senior Citizen in favour of the Petitioner-Respondent in the Application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (“the Act of 2007”), and directing the Applicant to deliver the vacant possession of the subject premises within a period of 30 days thereof.
3. This Petition was filed as the Appellate Tribunal was not available.

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4. Mr. Lohia, the learned Counsel for the Petitioner, on instructions, submits that though the Appellate Tribunal has given notice to the parties that the Appeal would be taken up for hearing today, and pursuant to the said notice, the Advocates for the parties appeared before the Appellate Tribunal, the latter has refused to allow the parties to be represented by the legal practitioners invoking the provisions under Section 17 of the Act of 2007. The Appeal has now been posted for hearing on 7th July 2026.

5. Mr. Lohia submits that the said direction is in teeth of the judgments which have struck down Section 17 of the Act of 2007. Attention of the Court is invited to the decision of this Court in **Santosh Savlaram Morajkar Vs Sumitra Savlaram Moraskar & Anr.**¹

6. Mr. Kantawala, the learned Counsel for Respondent No.1-Senior Citizen submits that the Respondent No.1 is not averse to allow the parties to be represented by the legal practitioner and the expeditious hearing and disposal of the Appeal by the Appellate Tribunal.

7. Since the Petitioner has invoked the statutory remedy of Appeal under Section 16 of the Act of 2007 and the Appellate Tribunal has taken up the Appeal for hearing, there is no propriety in entertaining this Petition. However, it is necessary to clarify that in view of the decision of this Court in the case of **Santosh Savlaram Morajkar (Supra)**

¹ High Court of Bombay at Goa Bench, Writ Petition No. 219 of 2025, decided on 9th June 2025.

which refers to the judgments delivered by the Delhi Court in the case of **Taruna Saxena Vs Union of India & Ors**,² which, in turn, has referred to the decision in the case of **Adv K.G. Suresh Vs The Union of India**,³ delivered by the Kerala High Court and the subsequent decision of the Karnataka High Court in **K. Srinivas Ganiga Vs Union of India and Ors**,⁴ which have declared the provisions of Section 17 of the Act of 2007 *ultra vires* Section 30 of the Advocates Act, 1961, the Appellate Tribunal is enjoined to allow the parties to be represented by a legal practitioner.

8. Thus, the Petition stands disposed with the following directions:

- (i) The Appellate Tribunal is requested to prepone the hearing of the Appeal to 15th June 2026.
- (ii) Parties shall appear before the Appellate Tribunal on 15th June 2026.
- (iii) No separate notices need to be given to the parties.
- (iv) The Appellate Tribunal shall allow the parties to be represented by the legal practitioners.
- (v) The Appellate Tribunal shall hear and decide the Appeal as expeditiously as possible and if it is not

2 2021 SCC OnLine Del 2600

3 2021 SCC OnLine Ker 1686.

4 Writ Petition No. 1912 of 2023 (GM-RES).

possible to hear and decide the Appeal finally, the Application for stay to the execution and operation of the order passed by the Maintenance Tribunal be heard within a period of one month from 15th June 2026.

[N. J. JAMADAR, J.]